1806.

SUPREME COURT OF THE UNITED STATES.

No. 43.

THE HEIRS OF GENERAL LAFAYETTE, PLAINTIFFS IN ERROR,

v.

EDWARD C. CARTER ET AL., MICHAELA LEONARD ALMONESTA, WIFE OF JOSEPH XAVIER DELFANT DE PONTALBA, AND OTHERS, AND THOMAS SUZANNE GRIFFON ET AL.

IN ERROR TO THE CIRCUIT COURT UNITED STATES, FOR THE EASTERN DISTRICT OF LOUISIANA.

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1307

CIRCUIT COURT OF THE UNITED STATES, FIFTH CIRCUIT AND EASTERN DISTRICT OF LOUISIANA.

A TRANSCRIPT OF THE RECORD AND PROCEEDINGS

IN THE CASE OF THE

HEIRS OF LAFAYETTE
versus
MADAME PONTALBA ET ALS. } 2111.

Be it remembered, that heretofore, to wit, on the 26th day of March, in the year of our Lord one thousand eight hundred and fifty-two, Charlotte Mathilde Dumottier de Lafayette, wife of Maurice Poivre Bureaux de Pusey, and others, heirs and representatives of the late Major-General Lafayette, deceased, by their attorneys, George Eustis, Jr., and Miles Taylor, Esqrs., came into the Clerk's Office of said Court, and filed therein the following

Petition.

HEIRS OF LAFAYETTE
v.
MADAME PONTALBA et als. } United States Circuit Court, Eastern District of Louisiana.

To the Honorable the Circuit Court of the United States in and for the Eastern District of Louisiana:

The Petition of Charlotte Mathilde Dumottier de Lafayette, wife of Maurice Poivre Bureaux de Pusey, and of the said Maurice Poivre Bureaux de Pusey, who joins and assists his said wife herein; of Nathaniel Rene Emilie Dumottier de Lafayette, wife of Adolphe Joseph Scipion Perier, and of the said Adolphe Joseph Scipion Perier, who joins and assists his said wife herein; of Oscar Thomas Gilbert Dumottier de Lafayette, of Edmond Dumottier de Lafayette, of Clementine Adrienne Dumottier de Lafayette, wife of Auguste de la Bouninier de Beaumont, and of the said Auguste de la Bouninier de Beaumont, who joins and assists his said wife herein; of Marie Pauline de Lasteyrie du Saillant, wife of Charles Francois Marie de

Remusat, and of the said Charles Francois Marie de Remusat, who joins and assists his said wife herein; of Francois Melanie de Lastyrie du Saillant, wife of Claude Francois Philibert Tireny de Corcelle, and of the said Claude Francois Philibert Tireny de Corcelle, who joins and assists his said wife herein; and of Adrienne Jules de Lastyrie du Saillant, all citizens of the Republic of France, residing at Paris; and of Anastasia Pauline Louise Dumottier de Lafayette, widow of Juste Charles Cesar Foy de la Tour Maubourg, a citizen of the Kingdom of Sardinia, residing at Turin, the heirs and legal representatives of the late Major-General Lafayette, deceased,

Respectfully represents, that by the fourth section of an Act of Congress, entitled An act to revive and continue in force an act in addition to an act, entitled, "An Act in addition to an Act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the gospel among the heathen, and for other purposes," approved March 3, 1803, and of the several Acts of Congress amendatory and explanatory of the same, to wit, the 14th section of an Act supplementary to the Act, entitled, "An Act regulating the grants of land, and providing for the disposal of the lands of the United States south of Tennessee," approved March the 27th, 1804; the 8th section of an Act, entitled "An Act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans and the District of Louisiana," approved March 2d, 1805; and the 12th section of an Act, entitled, "An Act supplementary to an Act, entitled an Act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans and the District of Louisiana," approved April 21st, 1806; the United States granted to the said Major General Lafayette eleven thousand five hundred and twenty acres of land, for which land warrants were to be issued, to be located, surveyed, and patented at his option, and which he was specially authorized and empowered to locate and survey on any lands the property of the United States in the Territory of New Orleans, and for which, on presenting the surveys on the said lands to the proper officers, the President of the United States was authorized to issue letters patent to the said Major-General Lafayette, and that *that* the said land warrants were issued to the said Major-General Lafayette, and that, on the 26th November, 1807, he, by his agent, Armand Duplantier, made application to the Register of the Land Office for the Eastern District of the Territory of Orleans, and located on one-third part of a warrant for fifteen hundred and twenty in the rear of the City of New Orleans, as follows: on the vacant land situated beyond the line of six hundred yards, then lately abandoned by Congress to the corporation of the said city, round the fortifications of the same; that a survey of the tract of land comprised in the said location was made under the authority of the surveyor of the lands of the United States south of Tennessee, on or about the 22d day of March, 1825, and

that on the 4th of July, 1825, a patent was issued by the President of the United States for the said tract of land, located by the said Major-General Lafayette as aforesaid, and containing five hundred and three acres and eighty-eight hundredths, and bounded and described as follows, to wit, beginning at a point on Gravier's line six hundred yards from the former fortifications of the City of New Orleans; thence with the line six hundred yards from the said fortifications, crossing the Canal Carondelet to a point in the line of the lands claimed by C. Treme; thence with the lands of the said Treme north sixty degrees twelve minutes west eighty-eight chains and eighty-four links; thence south twenty-two degrees west to a point in Gravier's line eighty-eight chains and eighty-four links from the place of beginning, and thence with Gravier's line south seventy degrees twenty-five minutes east eighty-eight chains and eighty-four links to the place of beginning; in which said patent it was declared that all the parts and parcels of the tract of land described as aforesaid, not legally claimed by any other person or persons whomsoever, were granted to the said Major-General Lafayette and to his heirs, by the United States, to have and to hold the same with the appurtenances, to him the said General Lafayette and to his heirs and assigns forever. That the said tract of land was the property of the United States, when it was located as aforesaid, on the said 26th November, 1807, and that no part of the same was legally or rightfully claimed at any time subsequently thereto, by any person or persons whatever. And that in the premises the said Major-General Lafayette became and was in law the true, absolute, and legal owner and possessor in full and perfect ownership of every part and parcel of the said tract of land, bounded and described as aforesaid. Your petitioners further represent that the said Major-General Lafayette took actual possession of the said tract of land as owner. That previous to his death, which took place in the year 1834, he sold an undivided interest in and to a portion thereof, lying between the said front line of the said tract, beginning at a point in Gravier's line six hundred yards from the former fortifications of the City of New Orleans, and running thence with the line six hundred yards from the said fortifications, and crossing the Canal Carondelet to a point in the line of the lands claimed by C. Treme as aforesaid, and a certain other line beginning at a point on Orleans Street, between Roman and Derbigny Streets, and running thence across the said tract to a point on Common Street, between Miro and Galvez Streets, which was held and possessed by John Hagan, who became the owner and possessor of the said undivided interest in said portion; and the said Major-General Lafayette, during his lifetime, in a state of indivision, and that after the death of the said Major-General Lafayette, his legal heirs and representatives continued to hold and possess the said portion of the said tract of land in indivision with the said John Hagan, and all the remainder of the said tract of

land, bounded and described as aforesaid in the said patent, to wit: all that portion of the said tract lying between the said line beginning at a point on Orleans Street, between Roman and Derbigny Streets, and running to a point on Common Street, between Miro and Galvez Streets, and the back line of the said tract as described in the said patent, and which coincides with a line beginning at a point on Orleans Street, at or near the corner of Raudon or Reudon Street, and running to a point on Common Street at or near the corner of Salcedo Street; and that your petitioners are now in their said capacity of heirs and legal representatives of the said Major-General Lafayette, the legal owners and possessors of all of the said tract of land, located, surveyed, and patented by, for, and to the said Major-General Lafayette as aforesaid, lying and being between the said line beginning at the point on Orleans Street, between Roman and Derbigny Streets, and running across the said tract to the point on Common Street, between Miro and Galvez Streets as aforesaid, and the back line of said tract beginning at a point on Orleans Street, at or near the corner of Raudon or Reudon Street, and running thence to a point on Common Street at or near the corner of Salcedo Street.

And your petitioners further represent, that Michaela Leonarda Almonester, the wife, separated from bed and board, of Joseph Xavier Delfant de Pontalba, a citizen of the State of Louisiana, now absent in the Republic of France, and represented in this State by Eugene Rochereau & Co., her duly appointed attorneys in fact, who reside in the City of New Orleans, and Samuel Moore and Maria Francoise Malvina Lovell, his wife, separate in property from the said Samuel Moore, her husband, and Theodore Bailey Blanchard, testamentary executor of the late Theodore Nicolet, none of whose heirs are present or represented in the State, and Evareste Blanc, all residing in the City of New Orleans, and citizens of the State of Louisiana, although well knowing that they are without any right, title, or interest in or to any part, parcel, or portion of the said land, have respectively slandered petitioners' title, and pretended to be the owners of a certain portion of the said land comprised between two parallel lines, to wit: One beginning at the corner of Orleans and Prieur Streets, nearest the river, and running from thence across the said tract of land to the corner of Common and Tonte Streets, nearest the river; and another line beginning at a point on Orleans Street, between Mero and Tonte Streets, and running thence parallel with the before-described line to Common Street, at the corner of Common and Broad Streets, nearest the river, which said pretended claims, made respectively by the said Madame Pontalba, by the said Moore and wife, and Theodore Bailey Blanchard, as testamnetary executor as aforesaid, and by the said Evareste Blanc, are not only adverse to petitioners, but conflict, in whole or in part, with each other, that, by thus slandering petitioners' title, and pretending to

be the owners of the said portion of the said land, the said Madame Pontalba, Moore and wife, and Theodore Bailley Blanchard, executor of the said Theodore Nicolet, and Evareste Blanc, have prevented, and still continue to prevent, your petitioners from selling the same, which is of the value of many thousand dollars, on advantageous terms, and have caused your petitioners damage in the sum of *ten thousand dollars*. Wherefore your petitioners pray that the said Michaela Leonarda Almonester, the wife, separated from bed and board, of Joseph Xavier Delfant de Pontalba, through Eugene Rochereau & Co., her duly appointed attorneys in fact, Samuel Moore, and Maria Francoise Malvina Lovell, his wife, separate in property from the said Samuel Moore, her said husband, and Theodore Bailley Blanchard, testamentory executor of the said Theodore Nicolet, and Evareste Blanc, may be cited before this honorable Court, that they may be ordered to produce their titles to the said portion of land, if any such they have, that, after legal proceedings had, your petitioners may be adjudged to be the legal owners and possessors of the said tract of land, and of the said portion thereof, and that the said Madame Pontalba, the said Moore and wife, and Theodore Bailley Blanchard, testamentory executor, as aforesaid, and the said Evareste Blanc, may be ordered and enjoined to desist from asserting any claim to, or pretending to be the owner of the said portion of the said tract of land, or of any part thereof, and that they may be condemned to pay to petitioners the said sum of ten thousand dollars damages, as aforesaid, and the costs of suit.

Your petitioners further pray for all and general the relief they may be entitled to, in law or equity, or that the nature of their case may require.

GEORGE EUSTIS, JR.,
MILES TAYLOR,
Attorneys for Petitioners.

The President of the United States of America to the Marshal of the Eastern District of Louisiana, greeting:

HEIRS OF LAFAYETTE
v.
MADAME PONTALBA et als. } No. 2111.

You are hereby commanded, to summon Evariste Blanc, a citizen of the State of Louisiana, to comply with the demand of C. M. de Lafayette et als., Heirs of Lafayette, aliens, contained in the petition, of which a copy accompanies this citation, or to deliver his answer to the same, in the office of the Clerk of the Circuit Court of the United States, Fifth Judicial Circuit and Eastern District of Louisiana, in the City of New Orleans, in ten days after the service hereof, or judgment will be rendered against him by default; which delay is increased one day for every ten miles the defendant's resi-

land, bounded and described as aforesaid in the said patent, to wit: all that portion of the said tract lying between the said line beginning at a point on Orleans Street, between Roman and Derbigny Streets, and running to a point on Common Street, between Miro and Galvez Streets, and the back line of the said tract as described in the said patent, and which coincides with a line beginning at a point on Orleans Street, at or near the corner of Raudon or Reudon Street, and running to a point on Common Street at or near the corner of Salcedo Street; and that your petitioners are now in their said capacity of heirs and legal representatives of the said Major-General Lafayette, the legal owners and possessors of all of the said tract of land, located, surveyed, and patented by, for, and to the said Major-General Lafayette as aforesaid, lying and being between the said line beginning at the point on Orleans Street, between Roman and Derbigny Streets, and running across the said tract to the point on Common Street, between Miro and Galvez Streets as aforesaid, and the back line of said tract beginning at a point on Orleans Street, at or near the corner of Raudon or Reudon Street, and running thence to a point on Common Street at or near the corner of Salcedo Street.

And your petitioners further represent, that Michaela Leonarda Almonester, the wife, separated from bed and board, of Joseph Xavier Delfant de Pontalba, a citizen of the State of Louisiana, now absent in the Republic of France, and represented in this State by Eugene Rochereau & Co., her duly appointed attorneys in fact, who reside in the City of New Orleans, and Samuel Moore and Maria Francoise Malvina Lovell, his wife, separate in property from the said Samuel Moore, her husband, and Theodore Bailey Blanchard, testamentary executor of the late Theodore Nicolet, none of whose heirs are present or represented in the State, and Evareste Blanc, all residing in the City of New Orleans, and citizens of the State of Louisiana, although well knowing that they are without any right, title, or interest in or to any part, parcel, or portion of the said land, have respectively slandered petitioners' title, and pretended to be the owners of a certain portion of the said land comprised between two parallel lines, to wit: One beginning at the corner of Orleans and Prieur Streets, nearest the river, and running from thence across the said tract of land to the corner of Common and Tonte Streets, nearest the river; and another line beginning at a point on Orleans Street, between Mero and Tonte Streets, and running thence parallel with the before-described line to Common Street, at the corner of Common and Broad Streets, nearest the river, which said pretended claims, made respectively by the said Madame Pontalba, by the said Moore and wife, and Theodore Bailey Blanchard, as testamnetary executor as aforesaid, and by the said Evareste Blanc, are not only adverse to petitioners, but conflict, in whole or in part, with each other, that, by thus slandering petitioners' title, and pretending to

be the owners of the said portion of the said land, the said Madame Pontalba, Moore and wife, and Theodore Bailley Blanchard, executor of the said Theodore Nicolet, and Evareste Blanc, have prevented, and still continue to prevent, your petitioners from selling the same, which is of the value of many thousand dollars, on advantageous terms, and have caused your petitioners damage in the sum of *ten thousand dollars*. Wherefore your petitioners pray that the said Michaela Leonarda Almonester, the wife, separated from bed and board, of Joseph Xavier Delfant de Pontalba, through Eugene Rochereau & Co., her duly appointed attorneys in fact, Samuel Moore, and Maria Francoise Malvina Lovell, his wife, separate in property from the said Samuel Moore, her said husband, and Theodore Bailley Blanchard, testamentory executor of the said Theodore Nicolet, and Evareste Blanc, may be cited before this honorable Court, that they may be ordered to produce their titles to the said portion of land, if any such they have, that, after legal proceedings had, your petitioners may be adjudged to be the legal owners and possessors of the said tract of land, and of the said portion thereof, and that the said Madame Pontalba, the said Moore and wife, and Theodore Bailley Blanchard, testamentory executor, as aforesaid, and the said Evareste Blanc, may be ordered and enjoined to desist from asserting any claim to, or pretending to be the owner of the said portion of the said tract of land, or of any part thereof, and that they may be condemned to pay to petitioners the said sum of ten thousand dollars damages, as aforesaid, and the costs of suit.

Your petitioners further pray for all and general the relief they may be entitled to, in law or equity, or that the nature of their case may require.

GEORGE EUSTIS, JR.,
MILES TAYLOR,
Attorneys for Petitioners.

The President of the United States of America to the Marshal of the Eastern District of Louisiana, greeting:

HEIRS OF LAFAYETTE
v.
MADAME PONTALBA et als. } No. 2111.

You are hereby commanded, to summon Evariste Blanc, a citizen of the State of Louisiana, to comply with the demand of C. M. de Lafayette et als., Heirs of Lafayette, aliens, contained in the petition, of which a copy accompanies this citation, or to deliver his answer to the same, in the office of the Clerk of the Circuit Court of the United States, Fifth Judicial Circuit and Eastern District of Louisiana, in the City of New Orleans, in ten days after the service hereof, or judgment will be rendered against him by default; which delay is increased one day for every ten miles the defendant's resi-

dence is distant from New Orleans, the place where the Court is held. And that you make due return hereof on the first Monday of May, A. D. 1853.

Witness the Honorable R. B. Taney, Chief Justice of the Supreme Court of the United States of America, at the City of New Orleans, this twenty-sixth day of March, [L. S.] A. D. one thousand eight hundred and fifty-three, and of the Independence of the United States of America, the seventy-eighth year.

J. W. GURLEY,
Clerk.

Marshal's Return (endorsed on the original):

Received this 29th day of March, 1852, and on the 30th day of March, 1852, served copies of the within citation, plaintiffs' petition, and documents annexed, on the within named Evariste Blanc, in the manner following, to wit: By handing the same to him in person at New Orleans; and returned 30th March, 1852.

WM. S. SCOTT,
United States Marshal.
By N. W. BUTLER,
Deputy U. S. Marshal.

Extract from the Minutes. Judgment by default against Evariste Blanc, entry of 14th March, 1853.

HEIRS OF LAFAYETTE
v.
MAD. PONTALBA et als. } No. 2111.

On motion of Miles Taylor, Attorney for plaintiffs, and on showing to the Court that process of citation herein issued has been duly served on the defendant, Evariste Blanc, and that he has failed to plead or answer to plaintiffs' petition on the legal delay, it is ordered that a judgment by default be entered against him.

Answer of Michaela Leonarda de Almonester (wife, separated from bed and board, of Joseph Xavier Delfant de Pontalba), and Samuel Moore and Marie Francoise Malvina Lovell, his wife, and of Theodore Bailley, testamentary executor, &c. Filed 9th May, 1853.

To the Honorable Judges of the Circuit Court of the United States, for the Fifth Judicial Circuit and Eastern District of Louisiana:

The exception and answer of Michaela Leonarda de Almonester, the wife, separated from bed and board, of Joseph Xavier Delfant de Pontalba, and Samuel Moore and Marie Francoise Malvina Lovell, his wife, separated in property from her said husband, and Theodore

Bailly Blanchard, in his capacity of testamentary executor of F. Nicolet, deceased, all citizens of the State of Louisiana, respectfully shows: That they except to the form of this action, inasmuch as the plaintiffs are not in possession of the lands sued for, and the respondents are in possession thereof, and they aver that this suit can only be prosecuted in the form of a petitory action, and while insisting on this exception, they say for answer on the merits:

That they deny all and singular the allegations contained in the petition of the plaintiffs, except so far as they are hereafter specially admitted. They admit that the patent under which the plaintiffs sue, was issued to General Lafayette under the Acts of Congress recited in the petition, but they aver that all the preliminary steps taken by or for said General Lafayette, to obtain said patent, were irregular and illegal. They further show, that it appears on the face of said patent that there was granted by it to the said General Lafayette, only a tract of $114\frac{74}{100}$ acres, bounded in front by the tract granted to the City of New Orleans by the Act of Congress of March 3, 1807, in the rear by the land of C. Griffon (the land adjoining that of the respondents), on the upper side by Gravier's line, and on the lower side by the lands of C. Frémé, that the said tract of $114\frac{74}{100}$ acres does not conflict with the lands of the respondents, and that General Lafayette and Sir John Coghill, who had purchased the two-thirds of said patent from General Lafayette and Sir Josiah Coghill Coghill (the heir of said Sir John Coghill), always and expressly admitted that the said patent granted to General Lafayette only the said tract of $114\frac{74}{100}$ acres, that after the death of said General Lafayette, the same admission was made by the three heirs of General Lafayette, to wit: G. W. Lafayette, Madame de Lasteyrie, and Madame de Latour Maubourg, who owned together the remaining third of General Lafayette's original interest in said patent, and also by John Hagan, who purchased the rights of the said Sir John Coghill and of said Madame de Lasteyrie et de Latour Maubourg, until very lately, when this and similar suits were instituted. That from the premises it appears that if there was any ground for the claim now set up, which is denied, there is a better outstanding title, to wit: that of John Hagan, who owns eight ninth parts of all the rights the said General Lafayette ever had in the land granted by said patent, and that whereas the said John Hagan is a citizen of the State of Louisiana, your honorable court is without jurisdiction as to his said interest.

Your respondents further show, that the claim now made is based upon a forced and utterly inadmissible construction of said patent; that by the Act of Congress of March 2, 1805, the warrants granted to General Lafayette were to be located by him and under the authority of the Surveyor of the lands of the United States south of Tennessee, and on its being certified by the Register of the Land Office, at New Orleans, that if the lands so located and surveyed

were not rightfully claimed by any other party, a patent was to issue therefor; that the location of November 26th, 1807, recited in said patent, is void for uncertainty, and because if extending over the lands of the respondents, it encroached upon lands rightfully claimed by other parties, and therefore included less than 500 acres, to which it was restricted; that no survey was made of said location until 1824 or 1825; that the survey should not have included more than the land not rightfully claimed by other parties, among whom were the respondents; that although the survey included, besides the aforesaid $114\frac{74}{100}$ acres, a number of tracts rightfully claimed by other parties, the Register of the Land Office, at New Orleans, certified that only the said $114\frac{74}{100}$ acres were "vacant," and that the remainder were "private claims," meaning, thereby, that the said remainder were not public lands, but claims confirmed by law, and not subject to being patented by General Lafayette; that consequently only the said $114\frac{74}{100}$ acres were and could be patented to General Lafayette, and that if the said patent could apparently bear another construction, it would be, for any excess over and above the said $114\frac{74}{100}$ acres, contrary to the law by which its issuing was authorized, and null and void.

Your respondent, the said M. L. de Pontalba, further shows, that she is the true and lawful owner and possessor of the land described in the petition, which is part of a large tract of land having six arpents front on the Bayou Road, running back between parallel lines to Gravier's line, now Common Street, and bounded on the side nearest the city by the land belonging to the heirs of C. Griffon, and on the other side by land belonging to Castanedo, that said land was acquired by the late Andres Almonester y Roxas, your respondent's father, from the heirs of the widow Voisin, by an act passed before L. Mazange, Notary Public, on the 2d of July, 1782, and has ever since been held and corporeally possessed by him, by Louise de Laronde, his widow, the wife by a second marriage of Jn. Bte. Castillon, and by this respondent, who inherited the same from her said father and mother, and that on the 20th of December, 1806, the said Jn. Bte. Castillon filed the said claim for confirmation, in the name of his aforesaid wife, with the Board of Commissioners established at New Orleans, under the authority of Congress, by whom the same was confirmed, and whose decision was final against the United States, under the 4th section of the Act of Congress of March 3d, 1807, entitled "An Act respecting claims to lands in the Territories of Orleans and Louisiana."

Your respondent, the said M. L. Pontalba, further shows, that in the year 1836, a suit was instituted against her by Samuel Moore and Theodore Nicolet, who claimed the same land under a concession made to Jn. Bte. Macarty, on the 22d of December, 1795, that they were then informed that a third person, to wit, Evariste Blanc, was setting up a claim to the same land, and that, in consequence of

the jurisprudence of the Supreme Court of the Louisiana, on certain questions presented by French and Spanish land titles, and also by the title of your respondent (which jurisprudence has since been overruled by the Supreme Court of the United States), she thought it prudent to compromise her said suit with Moore and Nicolet, and that accordingly, on the of 184 , she made a compromise with them, by which the said M. L. Pontalba, and the said Moore and Nicolet united their claims, and agreed to make common cause against the said Evariste Blanc, and to divide equally that part of the land confirmed to the said M. L. Pontalba, as aforesaid, which lies between Canal Carondelet and Gravier's line, now Common Street. And your respondents, Samuel Moore and Marie Francoise Malvina Lovell, his wife, and Theodore Bailly Blanchard, testamentary executor of the late Theodore Nicolet, confirm what is hereabove said in relation to the compromise between them and M. L. Pontalba, and further aver, that said land is part of a larger tract, granted by the Baron de Carondelet, then the Governor of the Province of Louisiana, on the 22d of December, 1795, to the late Jean Bte. MaCarty; that the said concession was surveyed by Vincent Pintado, one of the Surveyors of the Spanish Government of Louisiana, in the beginning of 1796; that the said Jn. Bte. MaCarty filed his claim for the confirmation of said concession with the aforesaid Board of Commissioners, on the 25th November, 1806; that he filed together with his claims the aforesaid plan and proces verbal of survey of Pintado of 1796, wherein the lines and locality of MaCarty's concession are distinctly shown, and from which, it appears, that said concession extends over lands in this suit; that said claim was first rejected by the said Board of Commissioners, the reason stated by the Commissioners being, that the land was covered by anterior claims; that said claim was confirmed by the 1st section of the Act of Congress of April 12th, 1814; that nevertheless, after the death of the said Jn. Bte. MaCarty, his heir presented the same again for confirmation, under the Act of Congress, approved May the 11th, 1820; that a favorable report was made on said claim by the Register of the Land Office, of Jan. 6th, 1821, and that said report was confirmed by Act of Congress, of February 28th, 1823.

And your respondents further aver, that said General Lafayette and his heirs and assigns, having so long acquiesced in and acknowledged the title of the respondents, could not now withdraw their admissions and set up a stale claim.

And they further plead the prescription of 10, 20 and 30 years.

Wherefore, they pray to be hence dismissed with their costs.

L. JANIN,
Attorney for Defendants.

On the 10th day of May, 1853, the following entry was made on the minutes, to wit:

2111. Heirs of Lafayette *v.* Mad. Pontalba et als.
2116. Heirs of Lafayette *v.* Heirs of D'Orgenois.
2143. Heirs of Lafayette *v.* Heirs of Griffon et als.

These causes were taken up in connection and proceeded in until 3 o'clock, P. M., whereupon it was ordered that they be continued until to-morrow at ten o'clock, A. M.

And on the 11th May, 1853, the following entry was made on the minutes, to wit:

2109. Heirs of Lafayette *v.* Joseph Kenton et als.
2111. Heirs of Lafayette *v.* Mad. Pontalba et als.
2116. Heirs of Lafayette *v.* Heirs of D'Orgenois.
2143. Heirs of Lafayette *v.* Heirs of Griffon et als.

These causes as continued from yesterday were resumed, Messrs. Taylor and Eustis for plaintiffs, and Messrs. Janin and Ivy for defendants, and were proceeded with until 3 o'clock, P. M., when they were continued until to-morrow at 10 o'clock, A. M.

Agreement for the trial, &c.

HEIRS OF LAFAYETTE
v.
MADAME PONTALBA et als.,
HEIRS OF C. GRIFFON et als., and
HEIRS OF LE BRETON D'ORGENOIS et als.

United States Circuit Court, Eastern District of Louisiana.

It is agreed by the counsel that the above-entitled causes shall be tried together: That they shall be tried before the Judges, who shall find upon the facts, as a jury should do, and shall decide upon the law, as they would have to do in instructing a jury if the facts had been submitted to a jury.

That the clerk shall make a statement of the evidence, in writing, offered and read in evidence.

And that after the trial or after the motion for a new trial is made and overruled, a bill of exceptions shall be signed by the Court, showing—1st. How the case was tried. 2d. What written evidence was offered and received. 3d. What propositions the Court was called on to decide either by plaintiffs or defendants, and what were the decisions on the same; and 4th. What were the grounds for a new trial, and what was the decision on it.

MILES TAYLOR and G. EUSTIS, JR.,
Attorneys for Plaintiffs.
L. JANIN,
Attorney for Defendants.

Agreement as to trial and writ of error—filed.

HEIRS OF LAFAYETTE
v.
MADAME PONTALBA et als.,
HEIRS OF C. GRIFFON et als., and
HEIRS OF LE BRETON D'ORGENOIS et als.

United States Circuit Court, Eastern District of Louisiana.

It is agreed by the counsel in the above-entitled cases, that the same be consolidated and tried together, and that from the judgments which may be rendered in the same, a writ of error may be prosecuted and these cases taken up to the Supreme Court of the United States on the said writ of error, and be proceeded in as though they formed one case.

LS. JANIN,
Attorney for Defendants.
MILES TAYLOR,
Attorney for Plaintiffs.
C. ROSELIUS,
for Bailey, Kenton, and others.

Petition.

HEIRS OF LAFAYETTE
v.
HEIRS OF F. J. LE BRETON D'ORGENOIS et als.

United States Circuit Court, Eastern District of Louisiana.

To the Honorable the Circuit Court of the United States, in and for the Eastern District of Louisiana:

The petition of Charlotte Mathilde Dumottier de Lafayette, wife of Maurice Poivre Bureaux de Pusey, and of the said, &c., who joins and assists his said wife herein; of Nathaniel Réné Emile Dumottier de Lafayette, wife of Adolphe Joseph Scipion Perier, and of the said Adolphe Joseph Scipion Perier, who joins and assists his said wife herein; of Oscar Thomas Gilbert Dumottier de Lafayette, of Edward Dumottier de Lafayette, of Clementine Adrienne Dumottier de Lafayette, wife of Auguste de la Bouninier de Beaumont, and of the said Auguste de la Bouninier de Beaumont, who joins and assists his wife herein; of Marie Pauline de Lasteyrie du Saillant, wife of Charles Francois Marie de Remusat, and of the said Charles Francois Marie de Remusat, who joins and assists his said wife herein; of Francois Melanie de Lasteyrie du Saillant, wife of Claude Francois Philibert Tireny de Corcelle, and of the said Claude F. Philibert Tireny de Corcelle, who joins and assists his said wife herein; and of Adrienne Jules de Lasteyrie du Saillant, all citizens of the Republic of France, residing at Paris, and of Anastasie Pauline Louise Dumottier de Lafayette, widow of Juste Charles Cesar Foy de la Tour Maubourg, a citizen of the Kingdom of Sar-

dinia, residing, at Turin, the heirs and legal representatives of the late Major-General Lafayette, respectfully represents:

That by the 4th section of an Act of Congress, entitled "An act to revise and continue in force an Act in addition to an act, entitled 'An act, regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen,'" and for other purposes, approved March 3, 1803; and of the several Acts of Congress, amendatory and explanatory of the same, to wit, the 14th section of an act supplementary to the act, entitled "An act regulating the grants of land, and providing for the disposal of the lands of the United States south of Tennessee," approved March 27th, 1804; the 8th section of an act, entitled "An act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans, and the District of Louisiana," approved March 2d, 1805; and the 12th section of an act, entitled "An act supplementary to an act, entitled 'An act, for ascertaining and adjusting the titles and claims to land within the territory of Orleans and the District of Louisiana,'" approved April 21, 1806, the United States granted to the said Major-General Lafayette eleven thousand five hundred and twenty acres of land, for which land warrants were to be issued, to be located, surveyed, and patented "at his option," and which he was specially authorized and empowered to locate and survey on any lands the property of the United States in the Territory of Orleans, and for which, on presenting the surveys thereof to the proper officer, the President of the United States was authorized to issue letters patent to the said Major-General Lafayette.

That the said land warrants were issued to the Major-General Lafayette, and that, on the 26th of November, 1807, he, by his agent, Armand Duplantier, made application to the Register of the Land Office for the Eastern District of the Territory of Orleans, and located one-third part of a warrant for fifteen hundred and twenty acres of land, in the rear of the City of New Orleans, as follows: On the vacant land, situated beyond the line of six hundred yards, then lately abandoned by Congress to the Corporation of the said city, round the fortifications of the same; that a survey of the tract of land, comprised in the said location, was made under the authority of the Surveyor of the lands of the United States south of Tennessee, on or about the 22d of March, 1825, and that, on the 4th of July, 1825, a patent was issued by the President of the United States for the said tract of land, located by the said Major-General Lafayette as aforesaid, and containing five hundred and three acres and eighty-eight hundredths, and bounded and described as follows, to wit: Beginning at a point on Gravier's line six hundred yards from the former fortifications of the City of New Orleans; thence with the line six hundred yards from the said fortifications, crossing the Canal Carondelet to a point on the line of the lands claimed by C. Treme;

thence with the lands of the said Treme, north sixty degrees twelve minutes west eighty-eight chains and eighty-four links; thence south twenty-two degrees west to a point in Gravier's line, eighty-eight chains and eighty-four links from the place of beginning; and thence with Gravier's line, south seventy degrees twenty-five minutes east to the place of beginning; in which said patent it was declared that all the parts and parcels of the tract of land, described as aforesaid, not legally claimed by any other person or persons whomsoever, were granted by the United States to the said Major-General Lafayette, and to his heirs, to have and to hold the same with the appurtenances to him, the said General Lafayette, and to his heirs and assigns forever.

That the said tract of land was the property of the United States when it was located as aforesaid, on the said 26th of November, 1807, and that no part of the same was legally or rightfully claimed at any time subsequently thereto, by any person or persons whatever, and that, in the premises, the said Major-General Lafayette became and was, in law, the true, absolute, and legal owner and possessor in full and perfect ownership of every part and parcel of the said tract of land, bounded and described as aforesaid.

Your petitioners further represent, that the said Major-General Lafayette took actual possession of the said tract of land as owner; that, previous to his death, which took place in the year 1834, he sold an undivided interest in and to a portion thereof lying between the said front line of the said tract, beginning at a point in Gravier's line six hundred yards from the former fortifications of the City of New Orleans, and running thence with the line six hundred yards from the said fortifications, and crossing the Canal Carondelet, to a point in the line of the lands claimed by C. Treme as aforesaid, and a certain other line beginning at a point in Orleans Street, between Roman and Derbigny Streets, and running thence across the said tract to a point in Common Street, between Mero and Galvey Streets, which was held and possessed by John Hagan, who became the owner and possessor of the said undivided interest in the said portion, and the said Major-General Lafayette during his lifetime in a state of indivision, and that, after the death of the said Major-General Lafayette, his heirs and legal representatives continued to hold and possess the said portion of the said tract of land in indivision, with the said John Hagan; and all the remainder of the said tract of land bounded and described as aforesaid, in the said patent, to wit: all the portion of the said tract lying between the said line, beginning at a point on Orleans Street, between Roman and Derbigny Streets, and running thence to a point on Common Street, between Mero and Galvey Streets, and the back line of the said tract, as described in said patent, and which coincides with a line beginning at a point on Orleans Street, at or near the corner of Raudon or Reudon Street, and running thence to a point in Common Street at or near

the corner of Salcedo Street; and that your petitioners are now in their said capacity of heirs and legal representatives of the said Major-General Lafayette, the legal owners and possessors of all of the said tract of land, located, surveyed, and patented by, for, and to the said Major-General Lafayette, as aforesaid, lying and being between the said line, beginning at a point on Orleans Street, between Roman and Derbigny Streets, and running across the said tract to the point in Common Street, between Mero and Galvey Streets, as aforesaid, and the back line of said tract beginning at a point on Orleans Street at or near the corner of Raudon or Reudon Street, and running to a point on Common Street at or near the corner of Salcedo Street.

And your petitioners further represent, that the heirs and legal representatives of the late Francois J. Le Breton D'Orgenois, well knowing that they were without any legal right, title, or interest in or to any part, parcel, or portion of the said land, pretended to be the owners of a certain portion thereof, comprised between two parallel lines, to wit: One beginning at a point on Orleans Street, between Mero and Tonte Streets, and running thence across the said tract of land to the corner of Common and Broad Streets, nearest the river; and another beginning in Orleans Street, between Tonte and Rocheblave, at a point about three-fifths of the distance from Tonte to Rocheblave Streets, and running thence to a point on Common Street, between Broad and White Streets. That they pretended to make sales of the lots lying on the squares or parts of squares comprised in the said portion pretended to be owned by them, and lying between the two lines described as aforesaid. That Marie Louise Estelle Le Breton D'Orgenois, wife of Joseph Nelson Volant La Barre, one of the heirs and legal representatives of the said Francois J. Le Breton D'Orgenois, pretended to purchase a large number of the said lots, and that many other persons also pretended to purchase portions of said lots, although they also well knew that they, the said heirs and legal representatives of the said Francois J. Le Breton D'Orgenois, were without any legal title or interest in or to the same; and that Francois Valcour Volant Labarre, representing Pierre Volant Labarre, Anàis Labarre, and Estelle Labarre, the minor children and legal heirs of Marie Louise Estelle Le Breton D'Orgenois aforesaid, now deceased, as their duly appointed Tutor, residing in the Parish of Jefferson, and Edward C. Carter, Ellen McDermott, Jacques Demourcelle, Bernard de Santos, Henry Black, Charles Lawson, John Lanch, Jean Marie Porret, Thomas O'Hearne, Joachim Beaumont Levaudais, Pierre Ulyon Guisinque, Felix Marie Jacob, William O'Connor, Josephine Mouron (separate in property from her husband Charles Mouron), Francois Chauvin, Mademoiselle Fillette Bonseigneur, Octave Morel, Therese Jacob, John D. Kemper, Pierre Paul Devorges, Michael Gernon, John Kemp, Charles Harrispe, Pierre Passbonn, John Burgess, Mrs. Peggy Coxe, George Boner, Miss Priscilla Russell, Joseph Kenton, George Gottschalk,

William Dennis Smith, Pierre Minor Faisans, and Nathaniel E. Bailey, now pretend to be the owners of different portions respectively of the said portion of said tract of land; and that, by thus pretending and slandering your petitioners' title, they, the said heirs and legal representatives of the said Francois J. Le Breton D'Orgenois, and the said persons pretendiug to claim parts thereof under them, have prevented and still continue to prevent your petitioners from selling the same, which is of the value of many thousand dollars, on advantageous terms, and have caused them damage in the sum of five thousand dollars.

Wherefore your petitioners pray, that the said Francois Valcour Volant Labarre (Tutor of the said minors, Pierre Volant Labarre, Anais La Barre, and Estelle La Barre, heirs as aforesaid of the said Louise Estelle Le Breton D'Orgenois, and heirs and legal representatives of the said Francois J. Le Breton D'Orgenois), Edward C. Carter, Ellen McDermott, Jacques Demourouelle, Bernard de Santos, Henry Black, Charles Lawson, John Lanche, Jean Marie Porret, Thomas O'Hearne, Joachim Beaumont Levaudais, Pierre Ulyon Guerinque, Felix Marie Jacob, William O'Conner, Josephine Mouron, Francois Chauvin, Mademoiselle Fillette Bonseigneur, Octave Morel, Therese Jacob, John D. Kemper, Pierre Paul Deverges, Michael Gernon, John Kemp, Charles Harrispe, Pierre Passbonne, John Burgess, Mrs. Peggy Coxe, George Benner, Miss Priscilla Russell, J. Kenton, G. Gottschalk, W. D. Smith, P. M. Faisans, and N. E. Bailey, may be cited before this Honorable Court, that they may be ordered to produce their title to the said property, if any they have; that after legal proceedings had, your petitioners may be adjudged to be the legal owners and possessors of the said tract of land, and of the said portion thereof, that the said Francois Valcour Volant Labarre, in his capacity of Tutor of the said Minors, Pierre Volant Labarre, Anais Labarre, and Estelle Labarre, and the said Carter, McDermott, Demourouelle, De Santos, Black, Lawson, Lanche, Porret, O'Hearne, Levaudais, Guerinque, Jacobs, O'Conner, Mouron, Chauvin, Bonseigneur, Morel, Jacobs, Kemper, Deverges, Gernon, Kemp, Harrispe, Passbonne, Burgess, Coxe, Benner, Russell, Kenton, Gottschalk, Smith, Faisans, and Bailey, may be ordered and enjoined to desist from asserting any claim to, or pretending to be the owners of the said portion of land, or of any part thereof; and that after legal proceedings had, they may be condemned to pay to petitioners the said sum of five thousand dollars damages, and the costs of suit.

Your petitioners further pray for all and general the relief that they may be entitled to in law, or that the nature of their case may require.

GEORGE EUSTIS, JR.,
MILES TAYLOR,
Attorneys for Petitioners.

Answer of the Defendants. Heirs of F. J. L. D'Orgenois et als. Filed 21st January, 1853.

THE HEIRS OF GENERAL LAFAYETTE
vs.
HEIRS OF F. J. L. D'ORGENOIS & als.

To the Honorable the Circuit Court of the United States, in and for the Eastern District of Louisiana, the Answer of Heirs of F. J. L. D'Orgenois, Nathan E. Bailey, William O'Conner, F. M. Jacob, Pierre Ulyon Guerinque, Therese Jacobs, Jacques Demourouelle, Joseph Kenton, Pierre Paul Deverges, to the Petition of Mathilde Dumottier de Lafayette, and other heirs and representatives of the late Major-General Lafayette, filed in this Honorable Court against them, respectfully shows:

That the plaintiffs have no right or title to any part of the land claimed in their petition, because the Government of the United States donated to General Lafayette a portion of the wild, vacant, and unappropriated lands of the United States, subject to improvement and cultivation for the purposes of agriculture; and never intended to donate to him lands within the limits of the Corporation of the City of New Orleans.

Your respondents allege, that lands in a city are designated by squares and lots, and were expressly reserved from location under the grants to General Lafayette, by the 8th section of the Act approved the 2d of March, 1805.

And your respondents allege, that it was expressly prohibited by said Act that General Lafayette should locate his lands in less quantities than one thousand acres; which quantity of vacant land your respondents deny could be obtained in one body at the place in which his agents attempted to locate said land.

By the 12th section of an Act approved the 21st of April, 1806, General Lafayette was allowed to locate his lands in tracts containing less than one thousand acres; but was expressly prohibited from making a survey or location containing less than five hundred acres.

Now your respondents allege, that the location made by his agent was bounded, as stated by him, by a perfect grant, held by Jean Gravier, south, and Commons of the city, east. Your respondents deny that his survey could cross the Canal Carondelet on the north, because the Canal had been, before the change of government, appropriated to the purposes of navigation, and the lands north of it to individuals by regular surveys made by Lavau Trudeau, the Surveyor-General of the Province, and approved by the Spanish Government in Louisiana; and on the west there was a perfect grant in favor of Madame de Moleon, extending north and south

from the forks of the Bayou St. John to Gravier's line. Now your respondents allege and charge, that there was not five hundred acres of vacant land within these limits; and that the Agents of Lafayette could not locate his lands within them, without a wilful violation of the Act of Congress by which the lands were donated to him. And your respondents allege, that all the acts and doings in relation to the pretended location of his agents, and of those, who under their influence betrayed the interest of the Government of the United States, which they were bound to protect, are null and void, and produce no effect, and can give no right and title to any part of the lands claimed by Lafayette, his agents and heirs, and their associates, aiders, and abettors.

Your respondents allege that the City of New Orleans was incorporated by the legislative council of the Territory of Orleans, under authority of Congress, on the 17th day of February, 1805; that the agents of Lafayette did shortly afterwards attempt to locate a thousand acre warrant, east, west, north, and south of the centre of the city, in its forts, commons, devantures, and other public places, but without any authority whatsoever, and the attempt was so manifestly unlawful that the location was expressly abandoned on the 9th of November, 1807, as appears by an entry of J. W. Gurley, Register of the Land Office of the United States at New Orleans, to that effect.

Your respondents admit that the agent of General Lafayette made application on the 26th November, 1807, to locate a third of a warrant for fifteen hundred and twenty acres, in the rear of the city, but deny that permission was given by the Register of the Land Office, as required by the Act of Congress, or that the location was then made, or that he had any power or authority to divide the warrant. And your respondents allege, that he took no further steps to make the location until the 18th day of February, 1816, when he obtained permission from the Commissioners of the General Land Office to locate his claims in less quantities than five hundred acres, and Lafon, his agent, on the 25th of March, 1816, gave notice that he would survey the land in the rear of the six hundred yards beyond the fortifications of the city, appropriated to its commons, if it was not proved to the satisfaction of the Register of the Land Office that the land was rightfully claimed by other persons. No farther steps were taken to locate the claim until March, 1825, when Samuel H. Harper, Register of the Land Office, certified that the land was not rightfully claimed by any one, and Lafon surveyed it in a less quantity than five hundred acres.

Now, your respondents allege, that the permission given by the Commissioners of the General Land Office to survey the land in less quantity than five hundred acres, was in direct violation of an Act of Congress, and is null and void, and that the acts of Harper and Lafon, and all other officers, in attempting to perfect a title to the land in controversy, at the instance of Lafayette and the speculators

associated with him, were contrary to law, and can produce no effect. And your respondents especially charge, that Lafon, as surveyor of the United States, had surveyed for individuals, and Harper, as Register, both acting under oath, had confirmed to said individuals every foot of the land which they certified to be vacant, and surveyed as such for Lafayette, and these confirmed claims were well known to the officers of the General Land Office at Washington, and other officers, in all the steps they took to perfect a title by patent to Lafayette. So that your respondents charge that all those steps were not only taken in violation of acts of Congress, but were fraudulent, and the name of Lafayette has been constantly used in relation to his location and patent to cover palpable and fraudulent violations of law; and your respondents deny that the said Lafayette and his associates, and heirs and representatives, ever had any right or title to any part of the land claimed by them under the patent, which is the basis of this suit.

Your respondents allege, that they hold the property for which this suit was brought, by a complete and perfect title, derived from F. J. L. B. D'Orgenois, who held the same from Antonio Raimos, by a title sufficient in all respects to convey land; and further, that the claim of Mr. F. J. L. B. D'Orgenois to said lands, was confirmed by the Board of Commissioners appointed by the 5th section of an act of Congress, entitled "An act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans, and District of Louisiana," passed on the 2d March, 1805. And your respondents further allege, that they, and those under whom they claim, have had the continuous, and uninterrupted, peaceable, public, and unequivocal possession of the lands for which this suit is brought, for upwards of fifty years before the institution of the suit, and have exercised, during that long period, every kind of possession and ownership, and that they, and those under whom they claim, have had the same enclosed by fences for more than ten years before the institution of this suit; and in support of their title they specially plead the prescription of ten, twenty, and thirty years, founded upon bona fide possession with a just title. And these respondents further aver, and such the truth is, that they have made valuable improvements on the property claimed in this suit, the value of which they will establish by proper evidence, on the trial thereof; and, that at all events, the plaintiff cannot evict them without paying them for improvements made in good faith.

And respondents allege, that they hold a title to the property sued for, perfect against the world, and that the title of plaintiffs is false, fraudulent, and obtained in violation of a beneficent act of Congress, in favor of General Lafayette, and also in violation of the rightful claims to land of many of the oldest inhabitants of Louisiana, and is null and void.

Therefore, they pray judgment in their favor against the claim of

the plaintiffs, and that they be forever quieted in possession of the land claimed; also in case of eviction, for the value of their improvements, and for costs, reserving their rights to claim damages from the plaintiffs, and those secretly associated with them, for the injury already suffered, and which may be hereafter caused to them by the unfounded claims and suit of the plaintiffs, and they pray for all just relief the nature of the case may require. As in duty bound, &c.

ROSELIUS, IVY, and PRESTON,
Attorneys for Defendants.

Envelope around the foregoing, endorsed as follows: "This answer, as well as those of Mme. de Pontalba, Griffon and Moore, and Nicolet, are all to be filed as under the same date."

L. J.

Answer of Labarre. Filed 13*th May*, 1853, *as of* 10*th of May*, 1853. *Nunc pro tunc. No.* 2116.

To the Honorable Judges of the Circuit Court of the United States for the Fifth Judicial Circuit and Eastern District of Louisiana:

The Exception and Answer of Francois Valcourt Volant Labarre, herein acting as the tutor of Pierre Volant Labarre, Anais Labarre, and Estelle Labarre, the minor children of the late Marie Louise Estelle Le Breton D'Orgenois, and of the late Joseph Nelson Volant Labarre, her husband, respectfully shows: That they except to the form of this action, inasmuch as the plaintiffs are not in possession of the lands sued for, and the respondents are in possession thereof, and they aver that this suit can only be prosecuted in the form of a petitory action, and, while insisting on this exception, they say for answer on the merits: That they deny all and singular the allegations contained in the petition of the plaintiffs, except so far as they are hereafter specially admitted. They admit that the patent, under which the plaintiffs sue, was issued to the General Lafayette under the Acts of Congress recited in the petition; but they aver that all the preliminary steps taken by or for said General Lafayette to obtain said patent were irregular and illegal. They further show that it appears on the face of said patent that there was granted by it to said General Lafayette only a tract of $114\frac{74}{100}$ acres, bounded in front by the tract granted to the City of New Orleans, by the Act of Congress of March 3d, 1807, in the rear by the land of C. Griffon (the land of the respondents), on the upper side by Gravier's line, and on the lower side by the land of C. Treme; that the said tract of $114\frac{74}{100}$ acres does not conflict with the lands of the respondents; that General Lafayette and Sir John Coghill, who had purchased the two-thirds of said patent from General Lafayette, and Sir Josiah Coghill Coghill, always and expressly admitted that the said patent granted to General Lafayette only the said tract of $114\frac{74}{100}$ acres; that after the death of said General Lafayette, the same admission

was made by the three heirs of General Lafayette, to wit, G. W. Lafayette, Madame de Lasteyrie, and Madame de Latour Maubourg, who owned together the remaining third of General Lafayette's original interest in said patent, and also by John Hagan, who purchased the rights of the said Sir John Coghill, and of said Mmes. de Lasteyrie et de Latour Maubourg, until very lately this and similar suits were established.

That from the premises it appears that if there was any ground from the claim now set up, which is denied, there is a better outstanding title, to wit, that of John Hagan, who owns eight ninth parts of all the rights the said General Lafayette ever had in the land granted by said patent; and that whereas the said John Hagan is a citizen of the State of Louisiana, your honorable Court is without jurisdiction as to his said interest. Your respondents further show, that the claim now made is based upon a forced and perfectly inadmissible construction of said patent; that by the Act of Congress of March 3, 1805, the warrants granted to General Lafayette were to be located by him and under the authority of the Surveyor of the lands of the United States south of Tennessee, and on this being certified that the said land so located was not rightfully claimed by other parties, a patent was to issue therefor by the Register of the Land Office at New Orleans; that the location of November 26th, 1807, recited in said patent, is void for uncertainty, and because, if extending over the lands of the respondents, it encroaches upon lands rightfully claimed by other parties, and therefore included less than 500 acres, to which it was restricted; that no survey was made of said location until 1824 or 1825; that the survey should not have included more than the land not rightfully claimed by other parties, among whom were the respondents; that although the survey included, besides the aforesaid $114\frac{74}{100}$ acres, a number of tracts rightfully claimed by other parties, the Register of the Land Office at New Orleans certified that only the said $114\frac{74}{100}$ acres were "vacant," and that the remainder were "private claims," meaning thereby that the said remainder were not public lands, but claims confirmed by law, and not subject to being patented to General Lafayette; and that if the said patent could apparently bear another construction, it would be for any excess over and above the said $114\frac{74}{100}$ acres, contrary to the law by which its issuing was authorized, and null and void.

Your respondent further avers that the land claimed in this petition is part of a tract of land having two arpents front on the Bayou Road, bounded on the side nearest the city by the lands now or formerly belonging to Mrs. de Pontalba, and running back between parallel lines to Gravier's line, now Common Street; that the said land having become the property of the late Francois Joseph Le Breton D'Orgenois, he filed his claim for the confirmation thereof on the 20th of June, 1808, with the Board of Commissioners established

by law for this purpose, together with a plan showing the limits thereof; that the said Board of Commissioners confirmed said claim, and that by the 4th section of the Act of Congress of March 3d, 1807, entitled, "An Act respecting claims to land in the Territories of Orleans and Louisiana," said decision was final against the United States.

The respondents further show, that the said F. J. Lebreton D'Orgenois having departed this life, leaving two heirs, viz., the late Francois Le Breton D'Orgenois and the late Marie Louise Estelle Le Breton D'Orgenois, afterwards wife of the late Joseph Nelson Volant Labarre, who inherited the said property in equal shares; that after the death of said Joseph Nelson Volant Labarre and his said wife, your respondent was appointed tutor of their aforesaid minor children. He further avers that the said land has always been in the corporeal possession in good faith, under good and valid titles, from an early period of the establishment of the Province of Louisiana, of the parties under whom the said Lebreton held; that the said Francois Joseph Lebreton D'Orgenois acquired the same in good faith by valid titles, and that he and his heirs have always had the same open, uninterrupted, and corporeal possession, the said minors still retaining a considerable part thereof. Wherefore these respondents plead the prescription of ten, twenty, and thirty years, and pray to be hence dismissed with their costs.

L. JANIN,
Attorney for Respondents.

Answer of F. Chauvin. *Filed* 15*th June*, 1852.

HEIRS OF LAFAYETTE
v.
HEIRS OF F. J. L. D'ORGENOIS.

In the United States Circuit Court, in and for the Eastern District of Louisiana. No. 2116.

Now appears Francois Chauvin, one of the defendants in the above-entitled suit, by his attorney, and for answer to plaintiffs' petition says, that he denies all and singular the allegations therein contained. Wherefore this respondent prays to be hence dismissed with costs, and he prays for all such other and further relief and remedy as the nature of his case will admit and the law will allow, and he will ever pray, &c.

H. D. M'CANN,
Attorney for F. Chauvin, Defendant.

Answer of Fillette Bonseigneur. *Filed* 19*th February*, 1853.

HEIRS OF LAFAYETTE
v.
HEIRS OF D'ORGENOIS et al.

United States Circuit Court. No. 2116.

Fillette Bonseigneur, by her attorney, now comes into Court, and for her answer to the plaintiffs' petition says, that she joins in the

answer of her co-defendants, the heirs of F. J. L. D'Orgenois, Nathan E. Bailey, and others, and adopts as her own the said answer, its prayer, conclusions, and reserves, and all the pleas therein set forth, and she prays for general relief.

And as in duty bound.

E. FILLEUL,
Attorney.

Answer of Bernard de Santos. Filed 19th February, 1853.

HEIRS OF LAFAYETTE
v.
HEIRS OF D'ORGENOIS et al.
} United States Circuit Court. No. 2116.

Bernard De Santos, by his attorney, now comes into Court, and for his answer to the plaintiffs' petition says, that he joins in the answer of his co-defendants, the heirs of F. J. L. D'Orgenois, Nathan E. Bailey, and others, and adopts as his own the said answer, its prayer, conclusions, reserves, and all the pleas therein set forth, and he prays for general relief.

E. FILLEUL,
Attorney.

Answer of Mrs. Monrose. Filed May 20, 1852.

HEIRS OF LAFAYETTE
v.
HEIRS OF D'ORGENOIS et als.
} U. S. Circuit Court, Eastern District of Louisiana. No. 2116.

Widow Josephine Monrose, a defendant in this suit, now comes, and answering plaintiffs' petition, denies all and singular the allegations therein contained, and defendant further says, that she is owner of 13 lots of ground, by her bought in good faith of Bernard de Santos for $1060, as will fully appear by reference to the act of sale of said property, passed between her and said Bernard de Santos, before A. Ducatel, Notary Public, in New Orleans, on the 18th November, 1847, of which a legal copy is hereunto annexed: and defendant does further say, that she is also owner in good faith of two other lots of ground, Nos. 3 and 4 in the square formed by Bienville, Conti, Rocheblave, and Dorgenoy Streets, in New Orleans, on a plan made by L. Surgi, Surveyor, dated 10th October, 1844, deposited in the office of P. P. Labarre, Notary Public, each measuring 30 feet front, on Bienville Street, on a depth of 100 feet; that said two last lots were sold to respondent's late husband, Charles Monrose, by said De Santos for $200, by an act of sale passed on the 26th of April, 1847, between said De Santos and said Monrose, before said A. Ducatel, Notary Public.

And respondent further says that the said 15 lots form a portion of the ground unjustly claimed by plaintiffs.

And defendant further says, that she has made improvements on said lots to the amount of $500.

This respondent therefore prays leave of the Court to call in warranty the said De Santos, who resides in New Orleans, that he be cited to come and defend this suit as her vendor, that respondent be dismissed at plaintiffs' costs; but should judgment be rendered in favor of plaintiffs in this suit, defendant prays that judgment be rendered at the same time in her favor, sentencing plaintiffs to pay her the sum of $500, the value of her said improvements, and that she also have judgment against her said vendor for the sum of $1260, being the purchase price of said 15 lots of ground; for $500 as being the amount of damages, and for all costs of this suit, and defendant prays for all general relief.

L. EYMA,
Attorney for Defendants.

Exception of Bernard de Santos to the call in warranty of Mrs. Monrose. Filed 19th February, 1853.

HEIRS OF LAFAYETTE
v.
HEIRS OF D'ORGENOIS et als. } United States Circuit Court.

Now Bernard de Santos comes into court by his Attorney, and for his exception to the call in warranty of Mrs. Monrose, says: That this court has no jurisdiction in the said call in warranty, between citizens of the State of Louisiana.

Wherefore he prays that this exception be maintained, and that the call in warranty be dismissed at Mrs. Monrose's costs.

E. FILLIEUL,
Attorney.

Answer of J. Kemp, Jr. Filed 12th April, 1852.

HEIRS OF LAFAYETTE
v.
HEIRS OF F. J. L. D'ORGENOIS et als. } United States Circuit Court, Eastern District of Louisiana. No. 2116.

The subscriber, John Kemp, Jr., in answer to citation in him made in this case, appears, and for answer to plaintiffs' petition, denies all and singular the allegations in plaintiffs' petition contained, and prays that so far as this respondent is concerned, the petition of plaintiffs be dismissed at plaintiffs' costs, and for all and every relief in justice and equity of this unjust demand be accorded to the respondent.

JOHN KEMP, JR.

Answer and Call in Warranty of Octave Morel. Filed 21*st February*, 1853.

HEIRS OF LAFAYETTE
v.
HEIRS OF D'ORGENOIS et als. } United States Circuit Court. No. 2116.

Octave Morel, by his Attorney, C. Morel, comes into court, and for his answer to the plaintiffs' petition says, that he joins in the answer and exceptions of his co-defendants, the heirs of F. J. L. D'Orgenois, Nathan E. Bailey, and others, and adopts as his own the said answer and exceptions, its prayers, conclusions, answers, and all the pleas therein set forth, as if they were written down and fully set forth in the present answer. He further states that he is the owner of a certain lot of ground comprised in plaintiffs' claims as alleged, but he says that he has purchased said lot from Bernard de Santos, of this city, by an act passed before A. Ducatel, Notary, dated the day of , a duly certified copy whereof is hereunto annexed. That the said B. de Santos has sold unto him said property with a complete guarantee, and that he wishes to call him, said de Santos, in warranty, to defend him in the present suit. Wherefore he prays to be hence dismissed with costs, and further that the said Bernard de Santos be cited to appear and answer the present call in warranty, and that in case any judgment should be rendered against him, said O. Morel, in the premises, the same be rendered in his favor against said B. de Santos with costs, and he further prays, &c., and as in duty bound.

CHRISTL. MOREL,
Of Counsel.

Petition, filed 18*th May*, 1852.

HEIRS OF LAFAYETTE
v.
HEIRS OF GRIFFON et als. } United States Circuit Court, Eastern District of Louisiana.

To the Honorable the Circuit Court of the United States in and for the Eastern District of Louisiana:

The petition of Charlotte Mathilde Dumottier de Lafayette, wife of Maurice Poivre Bureaux de Pusey, and of the said Maurice Poivre Bureaux de Pusey, who joins and assists his said wife herein; of Nathalie Rene Emile Dumottier de Lafayette, wife of Adolphe Joseph Scipion Perier, and of the said Adolphe Joseph Scipion Perier, who joins and assists his said wife herein; of Oscar Thomas Gilbert Dumottier de Lafayette, of Edmond Dumottier de Lafayette, of Clementine Adrienne Dumottier de Lafayette, wife of Auguste de la Bouninier de Beaumont, and of the said, &c., who joins and assists

his said wife herein; of Marie Pauline de Lasteyrie du Saillant, wife of Charles Francois Marie de Remusat, and of the said Charles Francois Marie de Remusat, who joins and assists his said wife herein; of Francois Melanie de Lasteyrie du Saillant, wife of Claude Francois Philibert Tireny de Corcelle, and of the said Claude Francois Philibert Tireny de Corcelle, who joins and assists his said wife herein; and of Adrienne du Saillant, all citizens of the Republic of France, residing at Paris; and of Anastasia Pauline Louise Dumottier de Lafayette, widow of Juste Charles Ceasar Toy de la Tour Maubourg, a citizen of the kingdom of Sardinia, residing at Turin, the heirs and legal representatives of the late Major-General Lafayette, deceased, respectfully represents: That by the 4th section of an act of Congress, entitled "An Act to revive and continue in force 'An act in addition to an act, entitled an act in addition to an act, regulating the grants of land appropriated for Military services, and for the Society of the United Brethren, for propagating the Gospel among the Heathen,'" and for other purposes, approved March 3, 1803; and of the several Acts of Congress amendatory and explanatory of the same, to wit:—the 14th section of an Act supplementary to the act entitled "An act regulating the grants of land, and providing for the disposal of the lands of the United States south of Tennessee," approved March 27th, 1804; the 8th section of an Act entitled "An act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans, and the District of Louisiana," approved March 2, 1805; and the 12th section of an act entitled "An act supplementary to an act entitled an act for ascertaining and adjusting the titles and claims to land within the Territory of Orleans, and the District of Louisiana," approved April 21st, 1806, the United States granted to the said Major-General Lafayette, eleven thousand five hundred and twenty acres of land, for which land warrants were to be issued, to be located, surveyed, and patented "at his option," and which he was specially authorized and empowered to locate and survey on any lands, the property of the United States, in the Territory of Orleans, and for which, on presenting the surveys of the said land to the proper office, the President of the United States was authorized to issue letters patent to the said Major-General Lafayette. That the said land warrants were issued to the said Major-General Lafayette, and that on the 26th November, 1807, he, by his agent, Armand Duplantur, made application to the Register of the Land Office, for the Eastern District of the Territory of Orleans, and located one-third part of a warrant for fifteen hundred and twenty acres in the rear of the City of New Orleans, as follows: on the vacant land situated beyond the line of six hundred yards, then lately abandoned by Congress to the corporation of the said city, round the fortifications of the same; that a survey of the tract of land comprised in the said location, was made under the authority of the surveyor of the lands of the

United States south of Tennessee, on or about the 22d day of March, 1825, and that on the 4th of July, 1825, a patent was issued by the President of the United States, for the said tract of land located by the said Major-General Lafayette, as aforesaid, and containing five hundred and three acres and eighty-eight hundredths, and bounded and described as follows, to wit: beginning at a point on Gravier's line, six hundred yards from the former fortifications of the City of New Orleans; thence with the line six hundred yards from the said fortifications, crossing the Canal Carondelet to a point in the line of the lands claimed by C. Treme; thence with the lands of the said Treme, north sixty degrees twelve minutes west eighty-eight chains and eighty-four links, from the place of beginning, and thence with Gravier's line, south seventy degrees twenty-five minutes east eighty-eight chains and eighty-four links, to the place of beginning; in which said patent it was declared that all the parts and parcels of the tract of land described as aforesaid, not legally claimed by any other person or persons whomsoever, were granted to the said Major-General Lafayette, and to his heirs, by the United States, to have and to hold the same, with the appurtenances, to him, the said General Lafayette, and to his heirs and assigns forever. That the said tract of land was the property of the United States when it was located as aforesaid, on the said 26th of November, 1807, and that no part of the same was legally or rightfully claimed at any time subsequently thereto, by any person or persons whatever, and that in the premises the said Major-General Lafayette became, and was in law the true, absolute and legal owner and possessor, in full and perfect ownership of every part and parcel of the said tract of land bounded and described as aforesaid. Your petitioners further represent that the said Major-General Lafayette took actual possession of the said tract of land as owner. That, previous to his death, which took place in the year 1834, he sold an undivided interest in, and to a portion thereof, lying between the said front line of the said tract, beginning at a point in Gravier's line, six hundred yards from the former fortifications of the City of New Orleans, and running thence with the line six hundred yards from the said fortifications, and crossing the Canal Carondelet to a point in the line of the lands claimed by C. Treme, as aforesaid, and a certain other line beginning at a point on Orleans Street, between Roman and Derbigny Streets, and running thence across the said tract to a point on Common Street, between Miro and Galvez Streets, which was held and possessed by John Hagan, who became the owner and possessor of the said undivided interest in the said portion, and the said Major-General Lafayette, during his lifetime, in a state of indivision, and that after the death of the said Major-General Lafayette, his legal heirs and representatives continued to hold and possess the said portion of the said tract of land in indivision with the said John Hagan, and all the remainder of the said tract of land, bounded and described as

aforesaid, in the said patent, to wit: all that portion of the said tract of land lying between the said line, beginning at a point on Orleans Street, between Roman and Derbigny Streets, and running to a point on Common Street, between Miro and Galvez Streets, and the back line of the said tract as described in said patent, and which coincides with a line beginning at a point on Orleans Street, at or near the corner of Raudon or Reudon Street, and running to a point on Common Street, at or near the corner of Salcedo Street; and that your petitioners are now in their said capacity of heirs and legal representatives of the said Major-General Lafayette, the legal owners and possessors of all of the said tract of land, located, surveyed and patented by, for and to the said Major-General Lafayette, as aforesaid, lying and being between the said line, beginning at the point on Orleans Street, between Roman and Derbigny Streets, and running across the said tract to the point on Common Street, between Miro and Galvez Streets, as aforesaid, and the back line of said tract beginning at a point on Orleans Street, at or near the corner of Raudon or Reudon Street, and running thence to a point on Common Street, at or near the corner of Salcedo Street.

And, your petitioners further represent that Thomas Suranne Griffon, Marie Francoise Odele Griffon, wife of Auguste Bellongent, Hypolite Griffon, Elbanie Griffon, the wife Michel Maher, and Clemence Griffon, a minor, represented by her mother, Josephine Chazal, widow of Jean Marie Griffon, her natural tutrix duly appointed and confirmed, and Samuel Moore and Marie Francois Malvina Lovell, his wife, separate in property from her said husband, and Theodore Bailley Blanchard, in his capacity of testamentary executor of Theodore Nicolet, deceased, none of whose heirs are present or represented in the State, and Evareste Blanc, all citizens of the State of Louisiana, and residing in the City of New Orleans, well knowing that they are without any right, title or interest in, or to any part, parcel or portion of the said land, have respectively slandered petitioners' title, and pretended to be the owners of a certain portion of the said tract of land comprised between the said line, beginning at a point in Orleans Street, between Roman and Derbigny Streets, and running thence across the said tract of land to a point on Common Street, between Miro and Galvez Street, as aforesaid, and another line beginning at the corner nearest the river, of Orleans and Preour Streets, and running from thence to the corner of Common and Tonte Streets nearest the river, and which lines are parallel with each other, and which said pretended claims made by the said Thomas Suranne Griffon, Marie Francoise Odele Griffon, Hypolite Griffon, Elbanie Griffon, and Clemence Griffon, and by the said Moore and wife, and Theodore Bailley Blanchard, testamentary executor as aforesaid, and by the said Evareste Blanc, are not only adverse to petitioners, but conflict with each other in whole or in part—that by thus slandering petitioners' title, and pretending to be the owners of

the said portion of the said lands, they have prevented and still continue to prevent your petitioners from selling the same, which is of the value of many thousand dollars, on advantageous terms, and have caused petitioners damage in the sum of five thousand dollars.

Wherefore your petitioners pray that the said Thomas Suranne Griffon, Marie Francoise Odele Griffon, wife of Auguste Bellongent, and Auguste Bellongent and her husband, Auguste Bellongent, Hypolite Griffon, Elbanie Griffon, wife of Michel Maher, and the said Michel Maher, her husband, and Clemence Griffon, a minor, represented by her mother, Josephine Chazal, widow of Jean Marie Griffon, her natural tutrix, duly appointed and confirmed, Samuel Moore, and Marie Francois Malvina Lovell, his wife, separate in property, and Theodore Bailly Blanchard, testamentary executor of the said Theodore Nicolet, deceased, and Evariste Blanc, may be cited before this honorable court, that they may be ordered to produce their titles, if any such they have; that after legal proceedings had, your petitioners may be adjudged to be the legal owners of the said tract of land and of the said portion thereof, and that the said Thomas Suranne Griffon, Marie Francoise Odele Griffon, wife of Auguste Bellongent, Hypolite Griffon, Elbanie Griffon, wife of Michel Maher, and Clemence Griffon, represented by her natural tutrix as aforesaid, and the said Moore and wife, and Theodore Bailly Blanchard, testamentary executor as aforesaid, and the said Evariste Blanc, may be ordered and enjoined to desist from asserting any claim to, or pretending to be the owner of the said portion of the said land or any part thereof, and that they may be condemned to pay to petitioners the said sum of five thousand dollars damages as aforesaid, and the costs of suit.

Your petitioners further pray for all and general the relief they may be entitled to in law or equity, or that the nature of their case may require.

GEORGE EUSTIS, JR.,
MILES TAYLOR,
Attorneys for Petitioners.

Answer.

To the Honorable Judges of the Circuit Court of the United States for the Fifth Judicial Circuit and Eastern District of Louisiana:

The exception and answer of Hippolyte Griffon, of Elbanie Griffon, the widow of Michel Maher, of Clemence Griffon, of Suzette Griffon, and of Odele Griffon, wife of Auguste Bellongent, and of the said Auguste Bellongent, who herein authorizes and joins his said wife, and of Theodore Bailley Blanchard, herein acting as testamentary executor of the late Theodore Nicolet, and of Samuel Moore and Marie Francois Malvina Lovell, his wife, separated in property, all of whom are citizens of the State of Louisiana. Respectfully shows:

That they except to the form of this action, inasmuch as the plaintiffs are not in possession of the lands sued for, and the respondents are in possession thereof, and they aver that this suit can only be prosecuted in the form of a petitory action, and while insisting on this exception they say for answer on the merits: That they deny all and singular the allegations contained in the plaintiffs' petition, except so far as they are hereinafter specially admitted. They admit that the patent under which the plaintiffs sue was issued to General Lafayette under the Act of Congress, recited in the petition, but they aver that all the preliminary steps taken by or for said General Lafayette, to obtain said patent, were irregular and illegal.

They further show that it appears on the face of said patent that there was granted by it to said General Lafayette only a tract of $114\frac{74}{100}$ acres, bounded in front by the tract granted to the city of New Orleans by the Act of Congress of March 3d, 1807, in the rear of the land of your first-named five respondents, who are the heirs of Charles Griffon, on the upper side by Gravier's line, and on the lower side by the land of C. Treme; that the said tract of $114\frac{74}{100}$ acres does not conflict with the lands of the respondents, and that General Lafayette and Sir John Coghill, who had purchased the two-thirds of said patent from General Lafayette and Sir Josiah Coghill, the heir of Sir John Coghill, always and expressly admitted, that the said patent granted to General Lafayette only the said tract of $114\frac{74}{100}$ acres, that after the death of said General Lafayette, the same admission was made by the three heirs of General Lafayette, to wit: G. W. Lafayette, Madame De Lasteyrie, and Madame De Latour Maubourg, who owned together the remaining third of General Lafayette's original interest in said patent, and also by John Hagan, who purchased the rights of the said Sir John Coghill, and of said Madames De Lasteyrie and De Latour Maubourg, until very lately, when this and similar suits were instituted. That from the premises it appears that if there was any ground for the claim now set up, which is denied, there is a better outstanding title, to wit, that of John Hagan, who owns eight-ninths of all the rights the said General Lafayette ever had in the lands granted by said patent, and that whereas the said John Hagan is a citizen of the State of Louisiana, your honourable Court is without jurisdiction as to his said interest.

Your respondents further show that the claim now made, is based upon a forced and utterly inadmissible construction of said patent; that by the Act of Congress, of March 2d, 1805, the warrants granted to General Lafayette were to be located by him, and under the authority of the Surveyor of the lands of the United States south of Tennessee, and on its being certified by the Register of the Land Office at New Orleans, that the lands so located and surveyed were not rightfully claimed by any other party, a patent was to issue therefor; that the location of November 26th, 1807, recited in said patent, is void for uncertainty, and because, if extending over the

lands of the respondents, it encroached upon lands rightfully belonging to other parties, and therefore included less than 500 acres, to which it was restricted, that no survey was made of said location until 1824 or 1825; that the survey should not have included more than the land not rightfully claimed by other parties, among whom were the respondents; that although the survey included besides the said $114\frac{74}{100}$ acres, a number of tracts rightfully claimed by other parties, the Register of the Land Office at New Orleans certified that only the said $114\frac{74}{100}$ acres were "vacant," and that the remainder were "private claims," meaning thereby that the said remainder were not public lands, but claims confirmed by law, and not subject to being patented by General Lafayette; that consequently only the said $114\frac{74}{100}$ acres were and could be patented to General Lafayette; and that if the said patent could apparently bear another construction, it would be for any excess over and above the said $114\frac{74}{100}$, contrary to the law by which its issuing was authorized, and null and void.

Your first five named respondents, the heirs of C. Griffon, further show, that they are the true and lawful owners and possessors of the land described in the petition, which is part of a larger tract of land, having two arpents front on the Bayou Road, running back between parallel lines to Gravier's line, now Common Street, bounded on one side by Mad. de Pontalba, and on the other by the tract of $114\frac{74}{100}$, patented to General Lafayette; that the said land was acquired by Charles Griffon from the Widow Voisin, by act passed on December 11th, 1781, and that it has ever since been held and corporeally possessed by said C. Griffon, and since his death by the five aforesaid first-named respondents, who are his lineal descendants and heirs; that Charles Griffon filed his said claim for confirmation on the of , 18 , with the Board of Commissioners, established at New Orleans under the authority of Congress, by whom the same was confirmed, and whose decision was final against the United States, under the 4th section of the Act of Congress, of March 3d, 1807, entitled "An Act respecting claims to lands in the Territories of Orleans and Louisiana."

Your respondents, the said heirs of Charles Griffon, further show, that in the year 1836, a suit was instituted against them by Samuel Moore and Theodore Nicolet, who claimed the same land under a concession made to J. B. McCarty, on the 22d of December, 1795; that they were then informed that a third person, to wit, Evariste Blanc, was setting up a claim to the same land, and that in consequence of the jurisprudence of the Supreme Court of Louisiana, on certain questions presented by French and Spanish land titles, and also by the titles of your respondents (which jurisprudence has since been overruled by the Supreme Court of the United States), they thought it prudent to compromise their suit with Moore and Nicolet, and that accordingly, on the 15th of April, 1846, they made a compromise with them, by which the said heirs of C. Griffon, and Moore

and Nicolet united their claims, and agreed to make common cause against the said Evareste Blanc, and to divide equally that part of the land confirmed to the said heirs of C. Griffon, as aforesaid, which lies between Canal Carondelet and Gravier's line, now Common Street.

And your respondents, Samuel Moore and Marie Malvina Lovell, his wife, and Theodore Bailley Blanchard, testamentary executor of the late Theodore Nicolet, confirm what is herein above said in relation to the compromise between them and the heirs of Griffon, and further aver, that the said land is part of a larger tract, granted by the Baron de Carondelet, then Governor of the Province of Louisiana, on the 22d of December, 1795, to the late Jean Baptiste McCarty; that the concession was surveyed by Vincent Pintado, one of the surveyors of the Spanish Government of Louisiana, in the beginning of 1796; that the said J. B. McCarty filed his claim for the confirmation of said concession with the aforesaid Board of Commissioners on the 25th of November, 1806; that he filed, together with his claims, the aforesaid plan and proces verbal of Pintado of 1796, wherein the lines and locality of McCarty's concession are distinctly shown, and from which it appears that said concession extends over lands in this suit; that said claim was first rejected by the said Board of Commissioners, the reason stated by the Commissioners being that the land was covered by anterior claims; that said claim was confirmed by the 1st section of the Act of Congress of April 12th, 1814; that nevertheless after the death of said J. B. McCarty, his heir presented the same again for confirmation under the Act of Congress, approved May 11th, 1820; that a favorable report was made on said claim by the Register of the Land Office, of January 6th, 1821, and that said report was confirmed by Act of Congress of February 28th, 1823.

And your respondents further aver, that said General Lafayette and his heirs and assigns having so long acquiesced in and acknowledged the title of the respondents, cannot now withdraw their admissions and set up a stale claim.

And they further plead the proscription of 10, 20, and 30 years. Wherefore they pray to be hence dismissed with their costs.

LOUIS JANIN,
Attorney for Defendants.

Bill of Exception, Preparatory to Writ of Error.

HEIRS OF LAFAYETTE
v.
MADAME PONTALBA et als.,
HEIRS OF GRIFFON et als., and
HEIRS OF LE BRETON D'ORGENOIS et als.

United States Circuit Court, Eastern District of Louisiana.

Bill of Exception.

Be it remembered, that these causes were tried before the Judges,

who were to find upon the facts as a jury should do, and decide upon the law as they would have to do in instructing a jury, if the facts had been submitted to a jury. And upon the trial the plaintiffs offered and read in evidence the following Acts of Congress, instruments in writing, plans, or plats of survey, and other evidence.

1. Act of Congress, 3d March, 1803, page 236, section 4, Statutes at Large.

Sec. 4. And be it further enacted, That the Secretary of War be and he is hereby authorized to issue land warrants to Major-General Lafayette, for eleven thousand five hundred and twenty acres, which shall, at his option, be located, surveyed, and patented in conformity with the provisions of an Act entitled, "An Act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen," or which may be received acre and acre in payment for any of the lands of the United States north of the Ohio River and above the mouth of Kentucky River.

2. Act of Congress, 27th March, 1804—section 14, page 305, Statutes at Large.

Sec. 14. And be it further enacted, That Major-General Lafayette be and he is hereby authorized and empowered to locate and survey the lands allowed him by the fourth section of an Act, entitled, "An Act to revive and continue in force an Act in addition to an Act, entitled an Act in addition to an Act regulating the grants of land appropriated for military services, and for the Society of United Brethren for propagating the Gospel among the Heathen, and for other purposes," on any lands, the property of the United States, in the Territory of Orleans; and on presenting the surveys of the said land to the Secretary of the Treasury, the President of the United States is hereby authorized to issue letters patent to the said Major-General Lafayette, for the quantity of lands allowed by the said Act. Approved, March 27th, 1804.

3. Act of Congress, 2d March, 1805, Section 8, page 324, Statutes at Large.

Sec. 8. And be it further enacted: That the location or locations of lands, which Major-General Lafayette is, by law, authorized to make on any lands, the property of the United States, in the Territory of Orleans, shall be made with the Register or Registers of the Land Offices, established by this act in the said territory; the surveys thereof shall be executed under the authority of the Surveyor of the lands of the United States south of Tennessee; and a patent or patents therefor shall issue, on presenting such surveys

to the Secretary of the Treasury, together with a certificate of the proper Register or Registers, stating that the land is not rightfully claimed by any other person: *Provided*, That no location or survey, made by virtue of this section, shall contain less than one thousand acres, nor include any improved lands or lots, salt-spring or lead-mine.

4. Act of Congress, 21st April, 1806, section 12, page 391, Statutes at Large.

Sec. 12. And be it further enacted, That the location or locations of land, which may be made in the Territory of Orleans, by Major-General Lafayette, by virtue of the ninth section of the act to which (this) act is a supplement, shall and may be received, though containing less than one thousand acres: *Provided*, that no such location or survey shall contain less than five hundred acres.

5. A Copy of Warrant, by Secretary of War, for 1520 acres.

November 11.

Pursuant to the fourth section of an Act of Congress, regulating the grants of lands appropriated for military services, and for other purposes, passed the 3d day of March, 1803.

Major-General Lafayette is entitled to one thousand five hundred and twenty acres of land, to be located or received in payment according to the provisions made by law.

Given at the War Office of the United States, this 15th day of July, 1805.

(Signed) H. DEARBORN,
Secretary of War.

Registered. (Signed) H. ROGERS.

Land Office, New Orleans, 20th Jan., 1853.

I hereby certify the foregoing to be a true copy of a document on file in this office.

In testimony whereof, I have hereunto subscribed my name, on the day and year before written.

CHARLES FRITZ,
Register.

No. 6. *Application of A. Duplantier, Agent of Major-General Lafayette, to locate certain lands.* (*Offered by Plaintiffs.*)

To the Register of the Land Office for the Eastern District of the Territory of Orleans:

Armand Duplantier, Agent of Major-General Lafayette, prays, that one-third part of the Warrant of fifteen hundred and twenty

acres hereto annexed, and numbered 11, issued by the Secretary of War in favor of said Lafayette, be located on the vacant land situated beyond the line of the six hundred yards lately abandoned by Congress to the Corporation of the said city, round the fortifications of the same.

(Signed) G. DERBIGNY,
Attorney for Armand Duplantier.

New Orleans, November 26, 1807.

Land Office, New Orleans, 1st May, 1850.

I certify the foregoing to be a true copy of the original on file in this office.

CHARLES FRITZ,
Register.

No. 7. *Certificate of location by Major-General Lafayette. Offered by Plaintiffs.*

Notice.

Register's Office of the Eastern District of the State of Louisiana.
New Orleans, 26th November, 1807.

Armand Duplantier, Agent for Major-General Lafayette, has this day filed, in this office, a warrant for fifteen hundred and twenty acres of land, dated July 15th, 1805, and No. 11, issued by the Secretary of War, in favor of said Lafayette, and located one-third of the same in the following tract, viz.: On the vacant land situated beyond the line of the six hundred yards lately abandoned by Congress to the Corporation of the said city, round the fortifications of the same.

(Signed) J. W. GURLEY,
Register.

N. B. The above land shall be surveyed within one month from this date, when a certificate will issue for the same, unless it shall be previously proved to the satisfaction of the Register of the Land Office, that the said land is rightfully claimed by another person or persons.

Land Office, New Orleans, 1st May, 1850.

I certify the foregoing to be a true copy of the original on file in this office.

CHARLES FRITZ,
Register.

No. 43.

[For Map, see original, page 53.]

Certificate annexed to the foregoing Map of Survey.

Pursuant to an order received from the Surveyor of the Public Lands south of the State of Tennessee, I have surveyed for General

Lafayette, a tract of land situate in the Parish of Orleans, beyond the line of six hundred yards, abandoned by Congress to the corporation of the City of New Orleans, having such courses, distances, boundaries, and content as are represented in the annexed plat of survey.

(Signed) JOHN C. TURNER,
New Orleans, March 22, 1825. Principal Deputy Surveyor.

I, Samuel H. Harper, Register of the Land Office for the Eastern District of Louisiana, do hereby certify, that the lands herein contained are vacant, with the exception of the part designated as private claims.

(Signed) SAMUEL H. HARPER,
New Orleans, 22d April, 1825. Register.

No. 8 (*Plaintiffs'*), *continued. Patent.*

United States of America:

To all to whom these presents shall come, Greeting: Know ye, that General Lafayette, having deposited in the General Land Office, a certificate of the Register of the Land Office at New Orleans, in Louisiana, whereby it appears, that in pursuance of the fourth section of the Act of Congress, passed on the third day of March, one thousand eight hundred and three, entitled, "An act to revive and continue in force An act in addition to An act entitled 'An act in addition to an Act regulating the grants of lands appropriated for military services, and for the Society of the United Brothers for propagating the Gospel among the Heathen, and for other purposes," and of the several Acts of Congress amendatory and explanatory of the same.

General Lafayette, on the twenty-sixth day of November, one thousand eight hundred and seven, entered with the Register of the Land Office at New Orleans, a certain tract of land, containing five hundred and three acres and eighty-eight hundredths of an acre, adjoining the City of New Orleans, bounded and described as follows, to wit: Beginning at a point in Gravier's line, six hundred yards from the fortifications of the City of New Orleans, thence with the line six hundred yards from the said fortifications, crossing the Canal Carondelet, to a point in the line of the lands claimed by C. Treme, thence with the lands of the said Treme north sixty degrees twelve minutes west eighty-eight chains and eighty-four links, thence south twenty-two degrees west to a point in Gravier's line eighty-eight chains and eighty-four links from the place of beginning, and thence with Gravier's line seventy degrees and twenty-five minutes east eighty-eight chains and eighty-four links, to the place of beginning; as surveyed under the authority of the Surveyor of the lands of the United States south of the State of Tennessee.

There is, therefore, granted by the United States, unto the said General Lafayette, and to his heirs, all such parts or parcels of the tract of land above described, as are not legally claimed by any other person or persons whomsoever; to have and to hold the said parts or parcels of the tract above described, with the appurtenances, unto the said General Lafayette, and to his heirs and assigns forever.

In testimony whereof I, John Quincy Adams, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the fourth day of July, in the year of our Lord, one thousand eight [L. S.] hundred and twenty-five, and of the Independence of the United States of America the fiftieth.

By the President.

(Signed) JOHN QUINCY ADAMS.

(Signed) GEO. GRAHAM,
Commissioner of the General Land Office.

Recorded in Vol. 5, pages 80 and 81, of Donation Patents.

Certificates annexed to the foregoing Map of Survey and Patent.

General Land Office.

I certify that the within is a true copy from the Records of this office. In testimony whereof, I have hereunto signed my name and caused the seal of this office to be affixed, at the City of Washington, the 28th day of December, 1826.

[L. S.] (Signed) GEO. GRAHAM,
Commissioner of the General Land Office.

Consulate of the United States of America.
Paris, Kingdom of France.

I, Lorenzo Draper, Consul of the United States for Paris, &c., Agent for Claims, do hereby certify, that the within copy of an original copy from the Records of the General Land Office at Washington, with the Surveyor and Register's certificates, and plat of survey, are true and faithful copies, carefully collated and compared by me with the said original copy, deposited in this office by General Lafayette, on the twenty-fourth of February, 1834, and that this said copy is entitled to full faith and credit in judicature and thereout.

In testimony whereof, I have hereunto set my hand and seal of office, at Paris, this twenty-fourth day of June, [L. S.] in the year of our Lord, eighteen hundred and forty-two, and the 66th year of the Independence of said United States.

LORENZO DRAPER,
Consul U. S., &c., &c.

No. 9. Plaintiffs' admission of Counsel as to correctness of Map, &c. This document is also plaintiffs' No. 11.

HEIRS OF LAFAYETTE
v.
JOSEPH KENTON et als.

Nos. 9 & 11.
United States Circuit Court,
Eastern District of Louisiana.

Admissions:

It is admitted, that the plaintiffs are the heirs and legal representatives of General Lafayette; that General Lafayette resided in France, and that his heirs, the plaintiffs, have always resided there.

It is admitted, that Lafayette and Hagan were in possession of the portion of land, embraced in the patent to Lafayette, lying between the line represented on the plat accompanying the patent, and it is claimed by the heirs of Griffon, and the front line of said plat in the year 1839, and that they afterwards sold the same to different individuals.

It is admitted, that all the other defendants hold under Kenton, by titles translative of property.

It is admitted, that Sir Josiah Coghill was the heir of Sir John Coghill, and had succeeded to all his rights.

It is admitted, that the line E F, on the plat made by A. G. Blanchard, marked B, and filed as a diagram to apply the evidence in the case, is the same with the line E F on the plat making a part of the evidence filed with the claim of the Mayor, Aldermen, and Inhabitants of New Orleans, and embraced in Document No. 14 of the plaintiffs' evidence; and that the line, represented on the plat of survey made by O. Devizin, 13th April, 1765, laid down by Pilir, and represented by the letters E P, and running east and west is the same with the line E F, on the two before-mentioned plats.

It is admitted, that the distance from the Bayou Road at the point represented by the letter A on the said plat made by A. G. Blanchard, to the Canal Carondelet, is fourteen arpents; and from the same point to that represented on the said plat by the letter B is five arpents; from the Bayou Road to the point represented in said plat by the letter N, the same distance; and from the point on said plat represented by the figure 9, to where the line, running from the said figure 9, intersects the line represented by the letters E F, is nine arpents.

It is admitted, that the plan made by A. G. Blanchard, marked B, and filed to serve as a diagram for the application of the evidence, and the illustration or explanation of the argument of Counsel, is a copy of the plat filed with the claim of the Mayor, Aldermen, and Inhabitants of New Orleans, No. 14 of plaintiffs' evidence, and that the lines of the patent of Lafayette, as claimed by plaintiffs and the claims conflicting with it, are correctly laid down on it.

It is admitted, that all the documents, filed by either party, are true copies of the originals.

It is admitted, that there were judicial contests by suits before competent Courts, between Domingo Fleitas, the vendor of Joseph Kenton, and the said Joseph Kenton, and the said Joseph Kenton, and the said Madame Pontalba, the said heirs of F. J. Le Breton D'Orgenois, and the legal representatives of the said J. B. McCarty and B. McCarty, in which the said Madame Pontalba, heirs of Le Breton D'Orgenois, and legal representatives of the said J. B. MacCarty and B. MaCarty, claimed the said land under the confirmations in favor of J. B. Castillon, F. J. Le Breton D'Orgenois, and J. B. MaCarty or B. MaCarty, to all of whose rights they had succeeded, and that it was finally adjudged by judgments long since having the force of *res judicata*, that the said Madame Pontalba, the said heirs of Le Breton D'Orgenois, and the legal representatives of the said J. B. McCarty or B. MaCarty were without any title to the said land.

C. ROSELIUS,
For Kenton and others.
MILES TAYLOR,
For Plaintiffs.

No. 10. *Testimony of R. Hagan.*

On page 7 of printed record from Supreme Court of the United States.

Richard Hagan, for defendant, sworn, says: That the wood on the land in dispute was cut down in 1839; that it is to his knowledge, that Mr. Hagan paid for so doing; that it is to his knowledge, that in May, 1841, Mr. Hagan made a large sale of the greater part of this land in lots; that great many of the purchasers improved their lots; that the land was cleared to the back line; that the portion, claimed by Mr. Blanc, was also cleared by Mr. Hagan.

That never, to his knowledge, any person claimed any portion of said land before it was cleared; that he thinks Mr. Hagan became purchaser of said land in 1835; that he does not know whether Mr. Blanc had ever taken possession of any portion of the land.

He knows that a fence was put up since the land was cleared; that he is not aware that Mr. John Hagan paid taxes on a tract of land in the rear of the city, for himself and as agent for General Lafayette.

That he heard but recently that Mr. Blanc had any claims on said land; that Mr. Blanc notified him at the time the land was first offered for sale.

Cross-examination.

Witness says, that Mr. Hagan owns the rear of Gravier's plantation.

And the defendants then offered in evidence the correspondence of General Lafayette with his agent relative thereto, and other documents described in the list made out by the clerk, as follows (in this case against J. Kenton):

No. 11. Letter of Coghill to Vincent and Notte, 24th November, 1824.
" 12. Letter from Lafayette to Derbigny, 24th October, 1829.
" 27. Application of Duplantier, Agent of General Lafayette, to locate Warrant No. 2.
" 28. Entry of locations for Lafayette.
" 29. Certificate of Register on Lafayette's locations.
" 30. Notice of Lafayette's locations.
" 31. Letter of J. Meigs to Samuel Harper, 16th Febr'y, 1816.
" 32. Letter from J. Meigs to Samuel Harper, 25th May, 1816.
" 33. Letter from Harper to Crawford, 3d July, 1820.
" 34. Letter from Harper to Graham, 30th July, 1824.
" 35. Affidavit of Joseph M. Bradford, &c.
" 36. Certificate concerning the opening of Common Street.

To the introduction of which plaintiffs objected, and the Court, after hearing argument on the said objections, overruled the same, and received the said acts, letters, instruments in writing, &c., and they were read in evidence as follows:

Defendants' No. 11. *Letter of Coghill to Vincent & Notte.*

Copy.

Ballyduff, Thomastown, Ireland, Nov. 24th, 1824.

To Messrs. Vincent & Notte, New Orleans.

Gent.: Having been recommended to apply to you respecting my property, bequeathed to me by my late brother, Sir Jno. Coghill, I have enclosed you a power of attorney, to act as my agent; I have also sent you a copy of that part of my brother's Will which bequeathed it to me, as also copies of the title deed, granted by Congress to my brother, both of which are attested by the American Consul in Dublin.

As I do not wish to keep that property, I request you will have the goodness to dispose of it as you may deem most advantageous to me. When the property is sold, and you send me notice, together with the amount I am to receive (all bills at date), I shall forward you the title deed, and any other document you may think necessary.

The Marquis of Lafayette is now endeavoring to procure that part of the land adjoining New Orleans, which was in dispute.

Mr. Gallaher, the American Consul that was in Paris some time back, informed me he was authorized by the Government to state that if the Marquis and myself would give in our resignation for the

five hundred acres granted (and which seems not to be in the place we were to have located), in that case the Government would give us a new grant for whatever land was there or in the city. Upon this I went to Paris and did exactly what was necessary, together with the Marquis of Lafayette, before the American Consul in Paris, no ambassador being there. I shall, upon being put into possession of that property, also part with it. I forgot to mention that I am to have two-thirds of whatever is granted.

I am, Gentlemen,

Your Obed't Servant,

(Signed) J. C. COGHILL.

Translation.

Defendants' No. 12. *Offered 9th May*, 1853. *Letter of Gen. Lafayette to Gov. Derbigny.*

Lagrange, 24th October, 1829.

My Dear Governor:

This letter will be handed to you by a cousin of Sir Josiah Coghill Coghill, a purchaser as you know of part of my property in Louisiana. It is full time that Sir Joshua should know what he is to expect from his Louisiana lands, for I see that the successive agents holding his power, have not well advised him what can be made out of them. You have my full power, and consequently I have no new one to give you; I confine myself therefore to a few observations upon the two objects which interest Sir Joshua Coghill.

The first subject is the purchases made by Sir Joshua at Point Coupee. You know that some discussion had taken place relative to the Patents, Nos. 3, 4 & 5. I have not now before me the Patents sold to the brother of Sir Joshua Coghill. They were handed to him at the time, and must be either at his house in Ireland, or at his banker's in Paris; but it appears to me that the sales being anterior to those made to Parish and Baring, the property of Sir Joshua should be exempt from the claims of third parties. Besides, I begged of you to have the goodness to have surveyed those portions of Point Coupee, against which the claims of Messrs. Bouligny and Mercier might be brought forward. The Patents are in perfect order, signed by the President of the United States, registered at the Land Office. If there be any errors, neither my purchaser nor myself should be held responsible therefor. The relative of Sir Joshua will no doubt join with you in having the necessary surveys made. I flatter myself that he will have, as had Mr. Seymour, entire satisfaction in this subject.

I now come, my dear Governor and Attorney in fact, to the property situated near the town. You know all that has taken place in respect to this; I will nevertheless make here a short recapitulation.

It was not until Congress had given to the Corporation of New Orleans six hundred yards (three hundred toises), to be taken from the fortifications, that I entered into negotiation with Sir John Coghill, whose brother Sir Joshua is now his heir. This portion of land then was not included in our bargain.

But both Sir John and myself were of opinion that there remained a greater number of acres than were found by the survey. Sir John was then to have the two-thirds, and I the third of what should be found, and without entering into a detail of the modifications that have taken place in our arrangements, the following is the actual state of the question:

Sir Joshua and myself agreed by a joint letter, to accept the totality of what should be found on survey, the nearest to the city, after deducting the concessions made thereto, and the receipt of the survey, which we originally thought might be about five hundred arpents, turns out to be reduced to about one hundred and thirty. Our expectations on this subject were constantly diminishing until the moment when the survey and the patent, which I will deliver to Sir Joshua or to his relative, determined the real measurement of this property.

I will not examine whether in consideration of a subsequent correspondence, between Sir Joshua Coghill and myself, I should still have a right to one-third of this property, because according to the previous agreement between Sir Joshua and myself, the whole of the property was to belong to him, in case I should be called upon by him to reimburse the price of the purchase, or else to leave him the entire property. I consider it then as remaining with Sir Joshua to determine whether he will take the whole of this property, or whether he prefers that I should remain proprietor of a part of these acres. It is well understood that he should take two-thirds from among the best; but I make this suggestion because you might have amongst my correspondence some letters relative thereto; and I here declare that in case Sir Joshua should desire to take possession of this entire piece, I make no opposition thereto, and authorize you to deliver it to him.

This way of acting appears to me to be the more correct, inasmuch as I received at the time eighty-five thousand francs for the two-thirds sold Sir Joshua, and that the parcel near the town appears to be very inferior in value to what Sir Joshua and myself, at the time, thought that it was.

I even told Sir Joshua Coghill, that if he did not wish to have the lot near the town, and thought proper to relinquish to me this property, I would indemnify him by giving him five hundred acres of land a short distance from Tallahassee, the Capital of the District, shortly to be the State of Florida.

It appears to me, that this ought to be sufficient for the cousin and agent of Sir Joshua, since all my powers, the most absolute, are in

your hands, and, in now introducing the relation of my purchase, I authorize you to do everything to put him in possession. But I do not restrict myself to the authorization, and I appeal to your friendship, my dear Governor, in asking you to have the goodness to render him every service, and to give him every facility that may depend on you. You feel what importance it is to me that my purchasers should be satisfied with my conduct towards them, and this desire I experience particularly in favor of Sir Joshua Coghill.

Receive, I beg of you, the expression of my high consideration, and very sincere attachment.

(Signed) LAFAYETTE.

Defendants' No. 27. *Application of Duplantier, Agent of Lafayette, to locate Warrant No.* 1.

To the Register of the Land Office in and for the Eastern District of the Territory of Orleans:

The petition of Armand Duplantier, agent of Major-General Lafayette, humbly showeth:

That by 8th section of act for ascertaining and adjusting the titles and claims to lands within the Territory of Orleans, and District of Louisiana, it is enacted that the locations of Major-General Lafayette in the Territory of Orleans, shall be made with the Register or Registers of the Land Offices, and that the surveys shall be accompanied with a certificate from the Register, stating that the land is not rightfully claimed by another person.

That the petitioner is bearer of a warrant in favor of Major-General Lafayette, Number 1, dated the 15th July, 1805, issued and signed by the Secretary of War, and entitling Major-General Lafayette to one thousand acres of land, to be located or received in payment, according to the provisions made by law, which warrant is thereto annexed, to be filed in your office.

Wherefore, your petitioner prays, that the said one thousand acres of land to Major-General Lafayette may be located on the lands belonging to the United States, and lying around the City of New Orleans, including the fortifications, in the parts thereof not reserved by the government, and on the Canal Carondelet as far as the bounds of Macarty's plantation, and your petitioner, as in duty bound, will ever pray.

(Signed) ARMAND DUPLANTIER.

New Orleans, March 31, 1806.

Land Office, New Orleans, 21st January, 1853.

I hereby certify the foregoing to be a true copy of the original on file in this office. In testimony whereof, I have hereunto subscribed my name, on the day and year before written.

CHARLES FRITZ,
Register.

Defendants' No. 28. *Entry of Locations for General Lafayette.*

Entry of locations made on behalf of General Lafayette, in the Eastern District of the Territory of Orleans.

New Orleans, Register's Office, 7th April, 1806.

Armand Duplantier, Agent for Major-General Lafayette, has this day filed in this office, a Warrant No. 1, for one thousand acres of land, dated July 15th, 1805, issued by the Secretary of War, in favor of said Lafayette, and located the same in the following tract, viz.:

"On the lands belonging to the United States, and lying around the City of New Orleans, including the fortifications in the parts thereof, not reserved by the Government, and on the Canal Carondelet, as far as the bounds of Macarty's plantation."

(Signed) J. W. GURLEY,
Register of the Land Office of the Eastern District of the Territory of Orleans.

N. B.—The above location has been withdrawn, as by the subsequent locations appears, this 9th November, 1807.

(Signed) J. W. GURLEY,
Register.

Register's Office for the Eastern District of the Territory of Orleans.

New Orleans, November 9th, 1807.

Armand Duplantier, Agent for Major-General Lafayette, has this day filed in this office, ten warrants for one thousand acres of land each, dated July 15th, 1805, and Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, issued by the Secretary of War, in favor of said Lafayette, and located the same in the following tracts, viz.:

"In the vicinity of Point Coupee, in the said District, about five thousand acres, lying on the Mississippi between Bayou Latanache and a tract of land belonging to Mr. Montehausse, of Point Coupee, and about five thousand acres, lying also on the Mississippi between Bayou Moreau and Chapalaya, in all about ten thousand acres."

(Signed) J. W. GURLEY,
Register.

N. B.—The location of the above warrant No. 10 has been withdrawn, and located again, as it appears by the entry of the 11th April, 1810.

(Signed) P. GRYMES,
Register of Eastern District.

Register's Office for the Eastern District of the Territory of Orleans.

New Orleans, 26th November, 1807.

Armand Duplantier, Agent for Major-General Lafayette, has this day filed in this office, a warrant for fifteen hundred and twenty

acres of land, dated July 15th, 1805, and No. 11, issued by the Secretary of War, in favor of said Lafayette, and located one-third part of the same in the following tract, viz.:

"On the vacant land situated beyond the line of the six hundred yards lately abandoned by Congress to the Corporation of the said City, round the fortifications of the same."

(Signed) J. W. GURLEY,
Register.

Register's Office, New Orleans, 24th January, 1824.

In pursuance of an order of the Commissioner of the General Land Office of the United States, under date of the 1st December, 1823, I have, this day, delivered to J. Wilson, Esq., Principal Deputy Surveyor for this District, a certified copy of the above location, together with the following warrant of survey:

"To J. Wilson, Esq., Principal Deputy Surveyor for the Eastern District of Louisiana:

"In virtue of an order to me directed, by the Commissioner of the General Land Office of the United States, under date of the 1st December, 1823, you are requested to execute the survey according to the tenor of the above location."

(Signed) SAMUEL H. HARPER,
Register.

Register's Office for the Eastern District of the Territory of Orleans.
New Orleans, August 6th, 1808.

Armand Duplantier, Agent of Major-General Lafayette, having filed in this office on the 26th November, 1807, a Warrant for fifteen hundred and twenty acres, dated July 15th, 1805, only one-third part whereof was then located, he this day locates the two remaining thirds of the said Warrant as follows, to wit:

"On lands fronting on the right shore of the Mississippi, above the settlement of Point Coupee, and running in depth on both sides of Bayou Latanache, without restriction as to the quantity to be laid off on either side."

(Signed) L. DERBIGNY,
Attorney for A. Duplantier.

(Signed) B. VAN PRADELLES,
Register of Land Office.

Register's Office for the Eastern District of the Territory of Orleans.
New Orleans, April 11th, 1810.

Armand Duplantier, Agent for Major-General Lafayette, who had on the 9th day of November, 1807, filed in this office a Warrant of one thousand acres of land, dated July 15th, 1805, and marked No. 10, issued by the Secretary of War in favor of said Lafayette, has this day located the same on the following tract, to wit:

"A tract, having its front on the right shore of the River Mississippi, to begin at the distance of about twelve acres above the mouth of the Bayou Latanache, where ends another tract already located for General Lafayette on both sides of the said Bayou; then run up the river as far as the limit of the land of C. Tremé, and run in depth as far as necessary to complete one thousand superficial acres."

(Signed) P. GRYMES,
Register of Eastern District.

[Copy of the original published.—Notice.]

Register's Office of the Eastern District of Louisiana.
New Orleans, November 26th, 1807.

Armand Duplantier, Agent for Major-General Lafayette, has this day filed in this office a Warrant for fifteen hundred and twenty acres of land, dated July 15th, 1805, issued by the Secretary of War in favor of said Lafayette, and located one-third part of the same in the following tract, viz.:

On the vacant land situated beyond the line of the six hundred yards lately abandoned by Congress to the Corporation of the said city, round the fortifications of the same.

(Signed) J. W. GURLEY,
Register.

A true copy from the record in my office.

(Signed) SAMUEL H. HARPER,
Register.

N. B. The above land shall be surveyed within from this date, when a certificate will issue for the same, unless it shall be previously proved to the satisfaction of the Register of the Land Office that the said land is rightfully claimed by another person or persons.

(Signed) B. LAFON,
Agent for Lafayette.

New Orleans, March 25th, 1816.

Land Office, New Orleans, 20th November, 1852.

I hereby certify the foregoing to be a true copy from a book marked, "Entry of location made in behalf of General Lafayette, in the Eastern District of the Territory of Orleans," which book is of record in this office.

In testimony whereof I have hereunto subscribed my name, on the day and year before written.

CHARLES FRITZ,
Register.

Defendants' No. 29. *Certificate of Register on Lafayette's locations.*

New Orleans, Register's Office, 7th, 17th, 1808.

I, B. Van Pradelles, Register of the Land Office of the Eastern District of the Territory of Orleans, do hereby certify, that the land represented in the above survey made for General Lafayette, and recorded in my office in Book C, is not rightfully claimed by any other person; also that the Agent of Major-General Lafayette hath caused to be published, in two newspapers published in the City of New Orleans, a copy of his application, and given notice of the time of surveying the land, and that a certificate would issue for the same on a certain day, unless it should be previously proved to the satisfaction of the Register of the Land Office that the land is rightfully claimed by another person.

And on the back is written the following:

On the day of , 1808, were returned 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, ten surveys, executed by C. Morgan, Deputy Surveyor of the County of Pointe Coupee, bearing date, viz.: Nos. 4 and 5, the 11th February; Nos. 7 and 8, 15th March last past.

N. B. Nos. 1, 2, 3, 6, 9, and 10, were also returned, but were rejected, because the Surveyor did not certify that they contained no improved lands; *for want of a certificate of their containing no improved lands.*

Land Office, New Orleans, 22d January, 1853.

I hereby certify the foregoing to be a true copy of a paper of record in the bundle of papers relative to the locations of Major-General Lafayette in this office.

In testimony whereof I have hereunto subscribed my name, on the day and year before written.

CHARLES FRITZ,
Register.

Defendants' No. 30. *Notice of Lafayette's locations.*

The time for the return of the survey to be made, in consequence of the above locations, and the day appointed for taking into consideration.

Notice is hereby given to all whom it may concern, to come forward and show cause, on or before the thirtieth day of June next, to the Register of the Land Office in and for the Eastern District of the Territory of Orleans, why his certificates should not issue,

stating that the said tract of land is not rightfully claimed by any other person.

Land Office, New Orleans, 22d January, 1853.

I hereby certify the foregoing to be a true copy of a paper of record in the bundle of papers relative to the locations of Major-General Lafayette, in this office.

In testimony whereof I have hereunto subscribed my name, on the day and year before written.

CHARLES FRITZ,
Register.

Defendants' No. 31. *Letter of Josiah Meigs to Samuel H. Harper, of 16th February*, 1816.

General Land Office, 16th February, 1816.

Sir: It has been represented to this office that a location has been made near Orleans, for the Marquis de la Fayette, on a tract of land somewhat less than 500 acres, and that some difficulty has arisen to prevent the completion of the grant, in consequence of his being limited to tracts not less than 500 acres. Patents have issued to him for all the land granted, 504 acres. If, therefore, he is satisfied with the above-mentioned location, as a liquidation of his claim for 504 acres, you may issue your certificate in his favor, *agreeably to the 8th section of the Act of 2d March*, 1805.

I believe Mr. Duplantier or Mr. Lafon is agent in this claim, to whom you may make this decision known.

I am, very respectfully, sir,
Your obedient servant,
(Signed) JOSIAH MEIGS.

SAML. H. HARPER, ESQ.,
Register Land Office, N. Orleans.

Land Office, New Orleans, 20th January, 1853.

I hereby certify the foregoing to be a true copy of a letter on file in this office.

In testimony whereof I have hereunto subscribed my name, on the day and year before written.

CHARLES FRITZ,
Register.

Defendants' No. 32. *Letter of Josiah Meigs to Saml. H. Harper, Esq., of 25th May*, 1816.

General Land Office, 25th May, 1816.

Sir: Yesterday, I received a letter from Mr. Gallatin, by which it appears that it is of importance to the Marquis Lafayette, that a

patent should issue as speedily as possible for the tract of land, (about 500 acres), respecting which I wrote you on the 16th of February last. You will therefore be pleased to see the agent of the Marquis, and inform him that you are ready to issue a patent certificate, on his furnishing to you the warrant and location. The patent certificate you will transmit to this office, and then a patent will be issued.

I am, very respectfully,
Sir, your obdt. servant,
(Signed) JOSIAH MEIGS.

SAML. H. HARPER, ESQ.,
Register Land Office, New Orleans.

Land Office, New Orleans, 20th January, 1853.

I hereby certify the foregoing to be a true copy of a letter on file in this office. In testimony whereof I have hereunto subscribed my name on the day and year before written.

CHARLES FRITZ,
Register.

Defendants' No. 33. *Letter of Samuel H. Harper to Hon. Wm. H. Crawford, of* 3*d July*, 1820.

New Orleans, 3d July, 1820.

SIR: In reply to your letter of the 5th ultimo, I shall begin by giving a history of the conduct of the agent of General Lafayette, in relation to his claim near this city, as appears from the documents in my office.

It is stated under the signature of John W. Gurley, Esq., the then Register, that on the 7th day of April, 1806, Armand Duplantier, agent for Major-General Lafayette, filed in this office a warrant, No. 1, for one thousand acres of land, dated July 15th, 1805, issued by the Secretary of War in favor of said Lafayette, and located the same on the following tract, viz.: "On the lands belonging to the United States, and lying around the City of New Orleans, including the fortifications, in the parts thereof not reserved by the Government, and on the Canal Carondelet, as far as the bounds of Macarty's plantation."

Mr. Gurley has added below: "The above location has been withdrawn, as by subsequent locations appears." On the 26th day of November, 1807, the same officer has recorded that, "Armand Duplantier, agent for Major-General Lafayette, has this day filed in this office a warrant for 1520 acres of land, dated July 15th, 1805, and No. 11, issued by the Secretary of War, in favor of said Lafayette, and located one-third part of the same in the following tract, viz.: 'On the vacant land situated beyond the line of the six hundred yards lately abandoned by Congress to the corporation of the said city, round the fortifications of the same.'"

In March, 1816, I received the following letter from the General Land Commissioner, dated the 16th February, 1816:—

"SIR: It has been represented to this office that a location has been made near Orleans for the Marquis de la Fayette, on a tract of land somewhat less than 500 acres, and that some difficulty has arisen to prevent the completion of the grant, in consequence of his being limited to tracts not less than 500 acres. Patents have issued to him for all the land granted except 504 acres. If therefore he is satisfied with the above-mentioned location as a liquidation for his claim for 504 acres, you may issue your certificate in his favor, agreeably to the 8th section of the Act of 2d March, 1805. I believe Mr. Duplantier or Mr. Lafon is agent in this claim, to whom you may make known this decision.

(Signed) "JOSIAH MEIGS."

To this order, on the 15th July, 1816, I replied as follows: "It appears from a document in my office, that Armand Duplantier, then acting as agent of Lafayette, did, on the 26th of November, 1807, file with the then Register (Jno. W. Gurley) a warrant for 1520 acres of land, at the same time locating one-third part thereof in the words following, viz.: 'On vacant land situate beyond the line of six hundred yards lately abandoned by Congress to the corporation of said city (meaning New Orleans), round the fortifications of the same.' Now, Mr. Lafon, who appears to be the agent of Sir John Coghill, assignee of General Lafayette, says he is unwilling to accept of lands *outside* of the fortifications, because they are of no value; but is willing to accept of lands *within* the fortifications, although the quantity would be much less than 504 acres, and although he might come into confliction with the corporation. No survey under this location has ever been returned into this office. Under these circumstances I wish to know whether I am authorized to issue a patent certificate for land *within* the fortifications, and if so whether an actual survey be necessary previous to issuing such certificate?" Such was my letter to Mr. Meigs, and to which I have never received any answer.

It has been owing to the confliction between the two agents I have mentioned, that this claim has not long since been adjusted. Lafon, the agent of Sir John Coghill, would be satisfied with the first location made by Duplantier, but that having been withdrawn, it is contended that it cannot be now acted on. As to the first thing you wish me to furnish, viz., a copy of the plat or survey of the land located, it is not in my power to do so, inasmuch as no survey has ever been made, or if made it has never been returned into my office.

As to the 2d thing required, viz.: the dates of the location, those I have had the honor to furnish.

3dly, with regard to a description of the unlocated land near the city, upon which the location might be made, showing the quantity

so disposable. I am unable to give a satisfactory answer, owing to the fact that the surveys of the District have never been made, and it is therefore impossible for me to ascertain with any degree of accuracy what is the quantity of the public land near the city or elsewhere. I can only state generally my own impression, that the land beyond the line of the six hundred yards given to the city, whether public or private property, is of little value.

I regret that it is not in my power to afford any greater light upon the subject than I have done, but should gladly obey any order of the Government, which would benefit General Lafayette.

I have the Honor to be,

Sir,

Your obedient servant,

(Signed) SAMUEL H. HARPER.

Hon. WM. H. CRAWFORD.

Land Office, New Orleans, 20th January, 1853.

I hereby certify the foregoing to be a true copy of a copy on file in this office. In testimony whereof, I have hereunto subscribed my name, on the day and year before written.

CHARLES FRITZ,
Register.

Defendants' No. 34. *Letter—S. H. Harper to Geo. Graham, of 30th July*, 1824.

Register's Office, New Orleans, 30th July, 1824.

Sir:—Your letter of the 28th ult. has just been received. On the 24th of March last I wrote you as follows:

"For a long time after your directions arrived for the survey of the lands of the Marquis Lafayette, it was impracticable to make it, owing to the land being under water. I am now informed by Mr. Wilson, that the survey has been completed as nearly as the water still remaining will admit, but it is ascertained that no more public land can be found than the quantity exhibited in the plat made by Mr. Lafon. I am at a loss to know whether it would be proper that I should issue a final certificate for that quantity."

I do not know whether the plat has ever been completed. If it has, I have not received it. I know that the tardiness with which this business has progressed, must be a source of great vexation to you, but I have no control over the surveyor, and unless he furnishes me with the plat, I cannot issue a final certificate.

With great respect,

Your obedient servant,

(Signed) S. H. HARPER.

GEO. GRAHAM, Esq.

Land Office, New Orleans, 20th January, 1853.

I hereby certify the foregoing to be a true copy of a copy on file in this office.

In testimony whereof I have hereunto subscribed my name, on the day and year before written.

CHARLES FRITZ,
Register.

Defendants' No. 35. *Affidavit of J. M. Bradford, one of the Editors of the Orleans Gazette.*

Notice.

Register's Office of the Eastern District of the Territory of Orleans.
New Orleans, 9th Nov. 1807.

Armand Duplantier, Agent for Major-General Lafayette, has this day filed in this office ten warrants for one thousand acres of land each, dated July 15th, 1805, and numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, issued by the Secretary of War, in favor of said Lafayette, and located the same in the following tracts, viz.: "In the vicinity of Point Coupee in the said District, about five thousand acres, lying on the Mississippi, between Bayou Latanache and a tract of land belonging to Mr. Montchaussi, of Point Coupee; and above five thousand acres lying also on the Mississippi, between Bayou Moreau and Chafalaya; in all about ten thousand acres."

(Signed) J. W. GURLEY,
Register.

A true copy from the record in my office.

(Signed) J. W. GURLEY,
Register.

N. B.—The above land shall be surveyed within two months from this date, and a certificate will issue for the same on the 1st March, 1808, unless it shall previously be found, to the satisfaction of the Register of the Land Office, that the said land is rightfully claimed by other persons.

ARMAND DUPLANTIER,

New Orleans, Nov. 23. 3 t.

I do hereby certify that an advertisement of Mr. Armand Duplantier, containing a publication of John W. Gurley, Esq., Register of the Land Office of the Eastern District of the Territory of Orleans, certifying the filing in his office of ten warrants, for lands of Marquis Lafayette, a copy of which advertisement is hereto attached, was published three times in the Orleans Gazette, commencing the 26th November, and ending the 2d December, 1807.

(Signed) JAMES M. BRADFORD,
One of the Editors of the Orleans Gazette.

Sworn to before me, this 16th June, 1808.

(Signed) JOSHUA LEWIS.

Land Office, New Orleans, 21st January, 1853.

I hereby certify the foregoing to be a true copy of the original on file in this office. In testimony whereof, I have hereunto subscribed my name on the day and year before written.

CHARLES FRITZ,
Register.

Defendants' No. 36. *Certificate concerning the opening of Common Street.*

Comptroller's Office, City of New Orleans, 22d January, 1853.

Extract.—Opening and Improving Streets. Common Street. Making a shell road thereon, from Galvey to the new Canal.

1848.		
May 15.	Dr. J. Wedersbrandt,	$400 00
	George McColley,	457 00
	G. W. Johnson,	1619 00
	John Hagan,	6024 00
	H. J. Ranny,	1742 00
	Evareste Blanc,	844 00
	Joseph Kenton,	450 00
	Mme. De Pontalba,	3858 25
	Estate of Nicolet,	246 75
	Samuel Moore,	246 75
	Joseph N. Labarre,	691 00
	N. O. Canal and Banking Co.,	1056 50
	Heirs of Chalon,	3365 25
	Municipality No. 2,	4675 00
		$25,675 50

A true copy from the original on file in my office.

O. DE BUYS,
Comptroller.

And to the decision of the Court overruling the said objections to the introduction of the said acts, letters, instruments in writing, &c., and admitting the same, the plaintiffs excepted and tendered their bill of exceptions, which was signed in open Court, as follows:

Bill of Exceptions to Defendants' evidence. Marked C. Filed.

HEIRS OF LAFAYETTE
v.
MADAME PONTALBA et als.,
HEIRS OF C. GRIFFON et als., and
HEIRS OF LE BRETON D'ORGENOIS.

United States Circuit Court,
Eastern District of Louisiana.

Bill of Exceptions.

Be it remembered, that on the trial of this case the defendants offered in evidence the following acts, letters, instruments in writing, viz.:

The correspondence of General Lafayette with his agent, relating thereto; the correspondence of the Officers of the Land Office, and of the Treasury, upon the claims, and the instructions given upon the same; Nos. 11, 12, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36 of the list made by the clerk, which said acts, letters, instruments in writing, &c., were offered in evidence by defendants to show

1st. That the Patent to General Lafayette, dated on the fourth of July, 1825, given in evidence by plaintiffs, had been irregularly and improvidently issued, and did not cover or embrace the land claimed by defendants.

2d. That Major-General Lafayette believed he had a right to only 114 acres under the said Patent; and

3d, That the civil or constructive and intentional possession of General Lafayette did not extend to the land claimed in this suit.

And that plaintiffs objected to the introduction of the same, on the grounds following, to wit:

1st. That the Patent is conclusive proof in a court of law, that all the previous steps had been properly taken before it was issued, and that defendants could not in a court of law be permitted to inquire into any facts anterior to its being issued, and that after a patent is issued for a particular tract of land for which no other person has obtained a patent, or holds a title equal in dignity to a patent, the United States alone has the right to contest its validity, or to inquire into any facts tending to restrain its force or effect; and

2d. That the effect of the Patent cannot be destroyed or restrained by the views or belief of the said Lafayette, the grantee, as to its extent, and that if it were true that said Lafayette, the grantee, did so believe and express himself to that effect, then the expressions to that effect or tending to show such belief on his part were the result of error as to the facts and law, and cannot in any manner affect, diminish, or restrain the operation of the said patent in his favor, or limit in any way his right to the land described in said patent; and,

That the court decided that the said evidence was legal evidence to show the extent of Lafayette's claim and possession, and that he had notice of these claims, but that they could not defeat his patent if otherwise valid, nor vary its meaning, and overruled said objections and admitted the same, to which decision of the court the plaintiffs excepted, and tendered this, their bill of exceptions, to be signed in open court after the same had been submitted to the opposite parties, which is accordingly done.

J. A. CAMPBELL,
Presiding Judge.

And the defendants then offered and read in evidence the following:

Defendants' No. 37.

Note.—For this, see Plaintiffs' No. 10, which is the same, and will be found on page of this transcript.

Defendants' No. 1. *Notice of claim of Griffon.*

Charles Griffon claims a tract of land situated on the southern side of the Bayou Road, about ten acres from the City of New Orleans, containing two arpents in front, and extending in depth as far as the lands appertaining now to John Gravier, bounded on the N. W. by the property of John Bte. Castillon, and on the S. E. by that of Claude Treme, and partly by the town as commons thereof, as it appears described in the annexed plan executed by Charles Trudeau, late Surveyor-General of the Province of Louisiana, dated May 6th, 1800.

According to the title papers now in the possession of J. B. Castillon aforesaid, said land has been occupied upwards of fifty years, and by virtue of the subsequent transfers thereof it has lately become the real property of the claimant, as he will prove by incontrovertible documents.

(Signed) CHARLES ANTOINE GRIFFON.

Land Office, New Orleans, 21st January, 1853.

I hereby certify the foregoing to be a true copy of the original, numbered 357, which was filed in this office on the 31st of December, 1806.

In testimony whereof I have hereunto subscribed my name, on the day and year before written.

CHARLES FRITZ,
Register.

(For Map, see original, page 87.)

Survey.

Don Carlos Trudeau, Royal Surveyor for the Province of Louisiana, and Surveyor for Individuals, &c., I certify and declare that on this third day of the month of May of this current year, I proceeded to the plantation of Don Carlos Griffon, situated in front of and on the western margin of the Bayou St. John Road, at about ten arpents distant from the gate of the City of New Orleans, adjoining, on the one side, to lands of Don Carlos Treme, and on the other side to lands of the succession of the late Dn. Andres Almonester; and being in said place, the following document was delivered to me by Don Claudio Treme:

"Sir:—Having seen Mr. Griffon relative to the dividing line between his and my lands: in order to avoid all discussions that might hereafter arise, I have agreed that the two landmarks by you established some years ago should remain fixed and permanent, and that they be recognized valid, as respects the respective properties of Mr.

Griffon and myself. You will have the goodness to make out your *proces verbal* of this affair, which will be signed by my wife, she holding my general power of attorney; and for which service Mr. Griffon has bound himself to pay you the compensation for your labor. I have the honor to be, respectfully, your very humble and obedient servant.

(Signed) "TREME."
(With flourish, &c.)

For which purpose, in presence of the aforesaid gentlemen, and assisted by Messrs. Favre Daunois and Henrique Rach, witnesses present, we proceeded to the verification of the landmarks that were planted formally on the 17th December, 1793, at the request of Dn. Gabriel Peyroux and the late Madame Pablo Moreau, the one father-in-law and the other mother-in-law to the parties interested, whose boundaries remained until the present time, depending upon the reply of the said Treme, as he had not been present at the measurement of those lands; and as now the before-mentioned Treme and Griffon are agreed upon admitting said boundary-marks and their courses as point and line of separation between their lands, we examined them again, and set them down on the plan which precedes this under the letters A, B; the first (on the margin of the small lake, vulgarly called the sea) [*la mar*] has the point destroyed by a shot from a gun; the second, B, on the other margin of the same sea, a little within; this has nothing remaining but the trunk or part that was in the ground, it having fallen from the decay of age. Between these boundary-marks we took the direction of the course, which we ascertained to run towards the depth south 50′ west by the actual compass, without attending to the variation, the needle declining N. E. eight degrees, the same course on which were planted the landmarks in the year 1793; and to supply the place of the fallen landmark, B, I had another placed at the point C, twenty-seven and a half toises further back towards the swamps, having two feet nine inches in total length, four by five inches square, pointed at the head, and sunk eighteen inches deep in the ground, all three of cypress wood.

This verification and planting of landmarks being finished, Don Carlos Griffon requested to have measured a lot of sixty feet front on the Bayou Road by two hundred feet in depth, sold to the free negro, called Baptista Derneville, by the aforesaid Mr. Griffon, as per act passed before P. Pedesclaux, on the 19th of April of the current year; which lot figures on the preceding plan, as defined by the black lines A, B, C, D; at each angle I had planted a cypress picket of about twenty inches long by an inch and a half thick, so that the lot sold is bounded on one side by the lands of D. Claudio Treme, and intermediate between those and the remaining lands of the vendor, which had two arpents front on the road, and was a donation from his former mother-in-law, Anna Darley, widow Voisin, under date 11th December, 1785; and in order that the whole may appear

in proof, I have drawn up this present, and made out the figurative plan which precedes, and which we signed with the parties interested.

JULIA MORO, CHS. GRIFFON, and I, the Surveyor.

May 6th, 1800.

I certify the foregoing to be a true copy from the original remaining in the office under my charge, date *ut supra*.

CARLOS TRUDEAU,
Surveyor.

Here follows certificates in English.

No. 357. *Confirmation.*

Land Office, New Orleans.

Charles Griffon claims a tract of land situate in the County of Orleans, on the south side of the Bayou St. John, and at the distance of about ten arpents from the City of New Orleans, containing two arpents in front, and extending in depth as far as the lands of John Gravier, and bounded on the N. W. by the land of J. B. Castillon, and on the S. E. by those of Claude Treme, and by lands claimed by the city as commons. It appears that this land was actually inhabited and cultivated on the 20th December, 1803, and that the same was continually inhabited and cultivated by the claimant or those under whom he claims for more than ten consecutive years next preceding.

Confirmed.

Registry Office, New Orleans.

I, B. Z. Canonge, Register of the Land Office at New Orleans, do hereby certify the foregoing to be a true copy of the decision of the Board of Commissioners for the Eastern District of the late Territory of Orleans, on the claim of Mr. Charles Griffon, No. 357, as taken from the decisions on land claims of said Board, record in this office.

In faith whereof, I hereunto subscribe my name, this 3d day of June, 1837.

B. Z. CANONGE,
Register.

It is admitted that the notice of claim was filed with the Board of Commissioners in December 31, 1806.

MILES TAYLOR and GEO. EUSTIS, JR.,
Attorneys for Plaintiffs.

Translation from the French.

Claims of F. J. Le Breton D'Orgenois. Defendants' No. 3, offered 10th May, 1853.

Re-survey of Plantation of Le Breton D'Orgenois, by Lafon, July 14, 1807.

Survey.

Precinct of the Bayou St. John Road to said Bayou.

At New Orleans, the 14th July, 1807, I, the undersigned Bartholemy Lafon, Deputy Surveyor to Isaac Briggs, Surveyor-General of the Territories south of the Tennessee, certify that on the requisition of Mr. Le Breton D'Orgenois, residing on the Bayou Road, upon land situated in said precinct, I proceeded to measure the extent, place the landmarks, or renew them if necessary, establish the lines between adjoining neighbors, &c. Being on the spot, I required of him to produce the documents authorizing him to have the operation performed, and he presented to me the following:

1st. A proces verbal or report of survey, by which it appears that in August, 1758, the lines of the grant to Le Breton were traced to the southwest, and that the depth of the land ran as far as the heirs of the succession Pradells, now Gravier.

2d. Sundry acts of sale by which this land was sold, with the depth it might have.

3d. Two separate acts by which Antonio Ramis sells to J. C. Le Breton D'Orgenois, a piece of land two arpents in front, and another by which he sells him the whole depth that it might have.

These then being present, the adjoining neighbors, viz.: Michel, on the northwest, Castillon absent, Le Breton D'Orgenois, proprietor and claimant, J. Roach, assistant witness, I proceeded to the admeasurement of the said piece of land. I went first to the point A, and from thence taking a course S. 49° 55′ W. by compass, I opened and planted landmarks on the line dividing the lands of Castillon from those under survey, and measuring from said point A 220 toises, I planted another landmark, B. From the point B measuring 260 toises over wooded land, I planted another landmark, C, at 60 feet from the canal, this direction striking in the centre of the basin. I continued to measure as far as the point E, when I suspended the measurement, being 524 toises further on, the whole of this line having in depth 37 arpents and 20 toises, the basin included. Returning to the point "A," I took a direction in a line perpendicular to the first, and I measured on the dotted line two arpents, forming the front of said plantation on the Bayou St. John Road. Crossing to the point M, I pointed my graphometer S. E. 49° 55′ W. (variation 8° 10′), and measuring 495 toises, I planted a landmark near to the canal, at ten toises E. the point N.

From this point measuring 300 toises, I planted a cypress landmark at O; measuring further 228 toises, I discontinued the measurement, the line having in length thirty-eight arpents and twenty toises, the width of the canal included, and I there planted a landmark. I also planted several other landmarks, as is indicated on the plan, with the several distances. So that there results in favor of Mr.

Le Breton, a lot of ground bounded on the northeast by the Bayou Road, on the northwest by the free negro Michel, and on the southeast by Jean Baptista Castillon, having a superfice of sixty-six arpents and 275 toises, of which ten acres are cultivable and the remainder a cypress swamp, no high prairie and no marsh.

In faith whereof I have given the present plan and proces verbal.

(Signed) LAFON.

Sale—Juana Chevalier, widow Lamothe, to Gabriel Peyroux, November 23, 1778.

Deed.

Know all whom these letters may see, that I, Dn. Juana Chevalier, widow of the late Dn. Santiago Lamothe, an inhabitant of this city, declare that I sell formally and effectively, to Dn. Gabriel Peyroux de Roche Molire, an inhabitant also of this city, a plantation having six arpents front by the depth that it may have, situated on the Road to the Bayou St. John, bounded on one side by Don Joseph Chalon, and on the other side by the free negress named Martina, the same which to me belongs by purchase from Don Pedro Contruer: And I sell the same to him, free from incumbrance or mortgage, as I, the aforesaid notary, in my capacity of Recorder of Mortgages, after examination of the books thereof, under my charge, certify; And for the price of one thousand five hundred hard dollars, whereof five hundred have been paid to me in cash, delivery whereof is hereby acknowledged, I renounce the proof, laws of delivery, the exception of the *non numerata pecunia*, fraud, and other laws touching the case, and grant a formal receipt: And the remaining one thousand dollars he is to give and pay to me within two years, (fixed) to begin and be counted from the first of December next ensuing of this present year, as the full credit allowed; In virtue whereof I desert from and relinquish all right of property, possession, profitable ownership and control, title, intervention or recourse, and other actions real and personal which against the said plantation, dwelling-house, and other buildings thereon, I had and held, and the whole I cede to, renounce in favor of, and transfer to the said purchaser, or whosoever his rights may represent, in order that as his own, he may possess, enjoy, and alienate the same at his pleasure, in virtue of this act, which I execute as a symbol of real delivery, whereby it is seen that he has acquired the possession without the need of further proof, from which I exonerate him: And I bind myself to the guarantee of the sale in due form of law, with my person and my property having and to have; and I authorize the tribunals of his majesty to compel me to its fulfilment with the rigor of confession of judgment affirmed on last resort. Whereupon I renounce the laws, special jurisdiction, rights and privileges in my favor, and the general formal law prohibiting the same: And being present, I, the said Dn. Gabriel

Peyroux de Roche Moliere, I accept this act, and by it receive as purchased the before-mentioned plantation, dwelling-house and buildings thereon, in the same and on the terms therein to me sold; I acknowledge delivery thereof; I renounce the proof, laws of delivery, law of the thing not seen nor received, fraud, and other laws touching the case, and I grant a formal receipt, whereby I constitute myself a debtor in the net and full sum of the said one thousand dollars, which I will deliver and pay over to the said Dn. Juana Chevalier, or her lawful representative, at the expiration of the credit expressed in this act fully, and without any lawsuit, with the expenses that the collection may occasion, whereby execution may issue against me in virtue of this act, and on the simple oath of a lawful party, to which I thereto accede; and for this security of my engagement (without the general law impairing the special nor the contrary, but that both actions may be against the rest of my property), I bind and specially mortgage under the express clause of *non aliendo*, the said plantation and buildings thereon, and engage not to sell, or in any manner alienate the same until the aforesaid one thousand dollars be entirely satisfied; and let the contrary be null, and transfer no right to a third party or parties to the prejudice of the said vendor: and for the binding obligation whereof both parties (each in what concerns himself or herself) authorize the tribunals of his majesty to compel us to its fulfilment with the rigor of confession of judgment affirmed in last resort: whereupon we renounce the laws, special jurisdiction, rights and privileges, in our favor, and the general law formally prohibiting the same.

In testimony whereof, this act is passed in the City of New Orleans on the 23d of November, 1778. I, the notary, attest that the parties executing this act, who have signed the same, are known to me, being witnesses, Dn. Josef de la Place, Dn. Luis Leotan, and Dn. Louis Lessasier, residents here present. Jeanne Chevalier, widow Lamothe, G. Peyroux de Roche Molire. Before me,

JUAN BTA. GARCI,
Notary Public.

Defendants' No. 42. *Claim of Jean Baptiste Castillon. Also, Defendants' No.* 4, *in these Suits, which is the same.*

Land Office, New Orleans, 28th January, 1853.

I hereby certify the foregoing to be a true copy of the evidence in support of the claim of Jean Baptiste Castillon, No. 308, of record in Book No. 2 (pages 633 to 645).

In testimony whereof I have hereunto subscribed my name, on the day and year before written.

CHARLES FRITZ,
Register.

No. 308.

Jean Baptiste Castillon claims the following tracts of land, situ-

ate in the County of Orleans, viz.: 1st, 2d, 3d, 4th, 5th, 6th, and 7th are left out by request.

CHARLES FRITZ,
Register.

8th. A tract situate on the left side of the Bayou St. John Road, in going from the city, containing six arpents in front, and extending back to the lands of Jean Gravier, and bounded on one side by land of Mr. Griffon, and on the other by land of Mr. Castaneda. 9th. A tract of land situate on the Bayou St. John, containing seven hundred and eighty-eight superficial arpents, and bounded on one side by land of Mr. Dereusseaux, and on the other by the lands of Metairie.

The decision on the seven tracts numbered *numbered* 1 to 7, is left out by request.

CHARLES FRITZ,
Register.

It appearing that the eighth tract claimed, was actually inhabited and cultivated on the 20th of December, 1803, and for more than ten consecutive years prior thereto, the Board confirm the claim. The ninth tract of land, now claimed, it appears was granted in 1758, by the French Government, to M. Monleon, under whose title the present claimant holds, the Board confirm the claim.

Land Office, New Orleans, 25th January, 1853.

I hereby certify the foregoing to be a true copy, from the report (with the exception of the parts left out by request), of the Board of Commissioners for the Eastern District of the Territory of Orleans, of record in this office. In testimony whereof I have hereunto subscribed my name, on the day and year before written.

CHARLES FRITZ,
Register.

Land Office, New Orleans, 7th February, 1853.

I hereby certify the foregoing to be a true copy of all the documents in relation to the claim of Jean Baptiste Castillon, No. 308, being 1st, the notice of claim, 2dly, the evidence in support of the same, and 3dly, the decision on the same by the Board of Commissioners, of record in this office.

In testimony whereof I have hereunto subscribed my name, on the day and year before written.

CHARLES FRITZ,
Register.

Defendants' No. 5. *Notice of Claim of J. B. McCarty.*

John Baptiste Macarty, wishing to conform himself to the Acts of Congress, relative to ascertaining and adjusting land claims, in the

Territory of New Orleans, represents that having lost all the titles of his lands in the fire that destroyed great part of this town, in the year 1794, and having lost since, the original title of a tract granted to him in the back part of this town, by the Baron Carondelet, the 22d December, 1795, the petitioner applied to the Marquis of Casa Calvo, for ascertaining his claim on the said tract, requesting his order to Governor Grand Prés at Baton Rouge, for receiving information from the Surveyor, Vincent Pintado, on that subject, and delivering by him a plan of his proceeding in the surveying of the mentioned grant, which information and plan the petitioner presents as his titles, together with copy of another plan made by the Surveyor-General, before the loss of the original titles, and which last plan contains also instructions upon the rest of the petitioner's land, situated in the front of this river, two leagues above, and in the same side of this town.

(Signed) JN. BAPTISTE MACARTY.

New Orleans, 24th of 9bre, 1806.

Land Office, New Orleans, 22d of January, 1853.

I hereby certify the foregoing to be a true copy of the original application and notice of claim, No. 194, which was filed in this office on the 26th of November, 1806. In testimony whereof, I have hereunto subscribed my name, on the day and year before written.

CHARLES FRITZ,
Register.

Translation (*from the Spanish*).

2111, 2116, 2143.

Defendants' No. 6, *offered* 10*th May*, 1853.

Documents proving the issue of a patent to J. B. McCarty, December 22d, 1795.

Figurative Plan

Of the lands from the city up to the grant made to Dubreuil, extracted from the survey chart of the Surveyor Bronlin, corrected by the Surveyor, Don Carlos Trudeau.

[For Plan, see original, page 100.]

Explanation.

A, B, C. Ancient boundary of the Rev. Fathers Jesuits, which boundary was contracted (deducido) to A, D, at the time of the confiscation of their property. E, lands of Mr. Morant, now Mad. Moro.

F. Touraugeau, now Don Andres Almonester. G, a lot sold by Touraugeau to Mr. Dubrient, as per act of 2d June, 1756. H, a lot sold by Mr. Lebreton to Mad. D'Auberville, as part of 30th May, 1757. O, a lot reserved by Mr. Lebreton, by same act. P, lot granted to Mr. Lebreton, as appears by the act of 2d June, 1756, and as already said in the act of 30th May, 1757. Q, lot of Mr. Lebreton, fronting on the River Mississippi, there having a depth as far as the boundary line of Joseph Girardy, and the lands of his Grange, according to the grant of 6th October, 1757. T, lot granted to Mr. De la Truinon, on 25th October, 1738, and ratified in favor of Mr. Lebreton on the day of October, 1757, as per acts. (P, Q, R, R, R, S,) pieces of land belonging to Mr. Lebreton, now Macarty, after sale of the portion (H, O, T). S, branches of the Bayou St. John. M, vacant lands beyond the Mississippi, portions of land, the depth of which attain to 65 and 66 arpents, for those of the individuals marked No. 7, (F, R, V, V, V,) lots on the Bayou St. John.

A true copy of the above-mentioned plan, remaining in my possession, since I was appointed by the Surveyor-General of this Province, Don Carlos Trudeau, to survey and trace the lines to the lands belonging to Don Louis Lebreton, now belonging to Don Juan Bte. Macarty; to which I have added the new Canal in situation and direction. And in virtue of this decree of His Excellency, the Governor-General of this Province, of 22d of the current month and year, I grant the present in the City of New Orleans, the 25th April, 1796.

VINCENT PINTADO.

Memorial.

To His Excellency, the Governor-General:

Don Juan Bata. Macarty, Captain of Carabineers of this fortified town, to your Excellency, with all due respect, represents: That for the objects which to him may be desirable, and in order to make the representations that may be necessary relative to the extension and boundaries of his lands, and in order to be enabled to finish the lining out and survey of the same, your Excellency will be pleased to order that by Don Vincent Pintado, a certified copy should be furnished of a plan remaining in his possession ever since he was appointed by the Surveyor-General of this Province, to perform the service; which plan is drawn up by the latter from the ancient land plot (plan terrero), and corrected from examinations and investigations made by the same. A favor which I hope to receive from the equity of your Excellency.

JUAN BTA. MACARTY.

New Orleans, 21st April, 1796.

Decree.

Be it as prayed for, on his paying the just and lawful fees.
The BARON DE CARONDELET.

A true copy of the original remaining in my possession, and at the request of the party interested, I grant these presents in the City of New Orleans, 25th April, 1796.
(Signed) VINCENT PINTADO.

A plan of the lands granted to Don Juan Bta. Macarty, by the Baron de Carondelet, on the 22d December, 1795.

[For Plan, see original, page 103.]

Explanation and notes illustrating the above Plan.

A. Triangular picket of cypress planted by the Surveyor, Don Carlos Trudeau, at 61 arpents from the Mississippi.

A, B, A right line drawn by me to one of the branches of the Bayou St. John, following the course of a contiguous fence, which Don Juan Bta. Macarty stated was on his boundary line.

B, C, D. Distances which were not measured by the perch or toise, the tracing out of the lines and survey not having been finished in that quarter.

A, B, C, D, E, F, G. Following the lines colored with carmine are the lands granted to Don Juan Bta. Macarty, by his Excellency, the Baron de Carondelet, on the 22d December, 1795, as an indemnification for the damages he suffered by having wood cut from off his land, and by another portion of land which he bound himself to surrender to the domains of the sovereign, on the north of the Canal Carondelet. According to the tenor of said grant, the right line F, G, should be prolonged until it intersects or falls in with the right line C, B, A, prolonged, which could not be carried into effect without injury to the surrounding land-holders. Likewise, according to the spirit of the grant, the right line F, E, is parallel to the Canal Carondelet, and one hundred Parisian feet from its margin. The N. E. variation of the compass of the Grafometer with which I performed this operation, is unknown to me exactly, for it was a new instrument, the glass was accidentally broken, the needle fell into the water, and could not again be found to ascertain said variation, and for which reason it is not marked on the plan.

V. S. PINTADO,
Surveyor of the Province.

New Feliciana, 11th May, 1804.

Memorial.

To the Marquis de Casa Calvo, Brigadier in the Royal Armies, and Commissioner on the part of His Majesty for the delivery of Louisiana:

Don Juan Bta. Macarty, Captain of the distinguished Carbineers of Louisiana, with due respect to your Excellency, represents, that suffering inappreciable damages from the inhabitants of New Orleans, by their cutting wood on his lands, that are bounded by and near to said city, principally since the Canal running to the Bayou St. John was made for facilitating the commerce and navigation of the lake, I frequently represented to his Excellency the Governor, Baron de Carondelet, from information derived from the surrounding neighbors of my lands, as also from Don Vincent Pintado, who went to re-examine my boundary lines, the enormous damages the population of the city had caused and were causing me (and particularly negro and mulatto slaves, in order to maintain themselves and pay their masters for their time).

With the view of applying a remedy to this disorder, in the year 1795 I solicited from the said Baron de Carondelet, as well in the nature of an indemnity as to have boundaries better defined, to grant me a portion of crown lands on the south side of the said Canal, which lay contiguous to mine; abandoning therefor another portion of my property on the north side of the canal. To which proposition the said Governor assented, aware of the justice of my demand; having before him the figurative plot taken from the survey chart, which indicates all the possessors adjacent to the Bayou, the Metairies, Chapetoulas, &c.

In consequence of this grant of land obtained from his Excellency the Baron, I proceeded to the demarcation and survey of the same, through Don Vincent Pintado, appointed by the Surveyor-General to perform this operation, and which was done through heavy expenses and much labor; and having left in the hands of Mr. Pintado the title to said grant, in order to have it recorded, and which (as said Pintado says) he delivered to the Baron for his examination, on the verbal representation of the late Don Bertrand Gravier, who thought said grant was prejudicial to him. It turns out that this document is not to be found, neither in the office of the Secretary, nor recorded; and it appears probable that it was mislaid among the papers of the Baron Carondelet—this probability being strengthened by the circumstance, that a short time after having performed the said operations, Pintado left here for Baton Rouge, where he has remained till the present day. But having informed me that he had left the said document in the hands of the Baron, I called on him repeatedly to get it from him, and was informed by him that he

did not recollect whether or not he had returned it; and that, if he had not, it must be found in the office of the Secretary of the Government, which as yet could not be ascertained. Taking into consideration the injury which may accrue to me for want of said document, notwithstanding the well-founded right of property I have in said portion of land, by agreement with the Baron de Carondelet for indemnity as well as for abandonment of part of my own lands:

Your Excellency is respectfully prayed to be pleased to order that the said Don Vincent Pintado, who performed the operations of demarcation and survey, and who has a full knowledge of the circumstances that gave rise to the agreement under which he performed the operations relative to his employment, declare in due form before Mr. De Grandpre, Governor of Baton Rouge, all that he may know respecting what I have above stated, and having relation to the affair; annexing thereto also a certified copy of the figurative plan drawn off from the before-mentioned survey chart, in which are laid down the boundaries of my lands with New Orleans, conformably to my agreement with the Baron de Carondelet; as the before-mentioned boundaries, from the time they were marked out to the present day, by virtue of said agreement, are not only well known to the public, but also that the then Intendent, Don Ramon de Lopez, granted to the Auditor of War, Don Nicholas Marie Vidal, a part of that land which I had abandoned. Notwithstanding, these documents to prove my title are necessary, and for the purpose of avoiding all difficulty respecting my boundaries, should occasion require it; for which purpose your Excellency is prayed to be pleased to order what I have herein begged; and the same being performed, to have it delivered to me for my security—the expenses which this measure may cause I am ready to pay. This I hope to receive from the justice which you administer.

JUAN BTA. MACARTY.

New Orleans, April 6th, 1804.

Order.

New Orleans, 8th April, 1804.

Be it as solicted in everything: he presenting himself with this document to the Governor of Baton Rouge, Don Carlos Grandpre, that he may be pleased to have performed the measures therein expressed.

CASA CALVO.

Order.

Baton Rouge, 8th May, 1804.

Let this be shown to the Captain of Militia and Deputy Surveyor of the Province, Don Vincent Pintado, for compliance therewith.

GRANDPRE.

Memorial.

To the Marquis de Casa Calvo, Brigadier in the Royal Armies, and Commissioner on the part of His Majesty for the delivery of Louisiana:

Don Juan Bta. Macarty, Captain of the distinguished Carbineers of Louisiana, with due respect to your Excellency, represents, that suffering inappreciable damages from the inhabitants of New Orleans, by their cutting wood on his lands, that are bounded by and near to said city, principally since the Canal running to the Bayou St. John was made for facilitating the commerce and navigation of the lake, I frequently represented to his Excellency the Governor, Baron de Carondelet, from information derived from the surrounding neighbors of my lands, as also from Don Vincent Pintado, who went to re-examine my boundary lines, the enormous damages the population of the city had caused and were causing me (and particularly negro and mulatto slaves, in order to maintain themselves and pay their masters for their time).

With the view of applying a remedy to this disorder, in the year 1795 I solicited from the said Baron de Carondelet, as well in the nature of an indemnity as to have boundaries better defined, to grant me a portion of crown lands on the south side of the said Canal, which lay contiguous to mine; abandoning therefor another portion of my property on the north side of the canal. To which proposition the said Governor assented, aware of the justice of my demand; having before him the figurative plot taken from the survey chart, which indicates all the possessors adjacent to the Bayou, the Metairies, Chapetoulas, &c.

In consequence of this grant of land obtained from his Excellency the Baron, I proceeded to the demarcation and survey of the same, through Don Vincent Pintado, appointed by the Surveyor-General to perform this operation, and which was done through heavy expenses and much labor; and having left in the hands of Mr. Pintado the title to said grant, in order to have it recorded, and which (as said Pintado says) he delivered to the Baron for his examination, on the verbal representation of the late Don Bertrand Gravier, who thought said grant was prejudicial to him. It turns out that this document is not to be found, neither in the office of the Secretary, nor recorded; and it appears probable that it was mislaid among the papers of the Baron Carondelet—this probability being strengthened by the circumstance, that a short time after having performed the said operations, Pintado left here for Baton Rouge, where he has remained till the present day. But having informed me that he had left the said document in the hands of the Baron, I called on him repeatedly to get it from him, and was informed by him that he

did not recollect whether or not he had returned it; and that, if he had not, it must be found in the office of the Secretary of the Government, which as yet could not be ascertained. Taking into consideration the injury which may accrue to me for want of said document, notwithstanding the well-founded right of property I have in said portion of land, by agreement with the Baron de Carondelet for indemnity as well as for abandonment of part of my own lands:

Your Excellency is respectfully prayed to be pleased to order that the said Don Vincent Pintado, who performed the operations of demarcation and survey, and who has a full knowledge of the circumstances that gave rise to the agreement under which he performed the operations relative to his employment, declare in due form before Mr. De Grandpre, Governor of Baton Rouge, all that he may know respecting what I have above stated, and having relation to the affair; annexing thereto also a certified copy of the figurative plan drawn off from the before-mentioned survey chart, in which are laid down the boundaries of my lands with New Orleans, conformably to my agreement with the Baron de Carondelet; as the before-mentioned boundaries, from the time they were marked out to the present day, by virtue of said agreement, are not only well known to the public, but also that the then Intendent, Don Ramon de Lopez, granted to the Auditor of War, Don Nicholas Marie Vidal, a part of that land which I had abandoned. Notwithstanding, these documents to prove my title are necessary, and for the purpose of avoiding all difficulty respecting my boundaries, should occasion require it; for which purpose your Excellency is prayed to be pleased to order what I have herein begged; and the same being performed, to have it delivered to me for my security—the expenses which this measure may cause I am ready to pay. This I hope to receive from the justice which you administer.

JUAN BTA. MACARTY.

New Orleans, April 6th, 1804.

Order.

New Orleans, 8th April, 1804.

Be it as solicted in everything: he presenting himself with this document to the Governor of Baton Rouge, Don Carlos Grandpre, that he may be pleased to have performed the measures therein expressed.

CASA CALVO.

Order.

Baton Rouge, 8th May, 1804.

Let this be shown to the Captain of Militia and Deputy Surveyor of the Province, Don Vincent Pintado, for compliance therewith.

GRANDPRE.

Declaration.

In the fortified Town of Baton Rouge, on the 12th May, 1804, before me, Don Carlos Grandpre, personally appeared the Captain of the Militia Cavalry, and Deputy Surveyor of the Province, Don Vincent Pintado, who having taken cognizance of the contents of the present memorial, said:

That in my presence, and in his own handwriting, he would state what had taken place respecting boundaries, survey, and figurative plan of the land mentioned by the party interested, as will be expressed in continuation for the purposes which may be requisite, which I certify.

GRANDPRE.

Report.

I, Don Vincent Sebastian Pintado, Captain of Militia Cavalry, Deputy Surveyor of the Province, in virtue of the petition and order in the present memorial, solemnly and most formally declare:

That in the year 1795, Don Juan Bta. Macarty applied to me, requesting me to make the demarcation and survey of his lands, derived from Mr. Lebreton, as they are found delineated in the survey chart in the possession of the Surveyor-General, and which, as it appears, was copied from the chart drawn by the Surveyor, Mr. Brontin, at the time of the establishment of this Colony; for which demarcation and survey I was commissioned by the Surveyor-General. And having prolonged the lower boundary of said possession as far as a cypress picket, or post, which was sixty-one arpents from the river, and following the course of an old fence which was there found, and which said Macarty stated had been put up according to the primitive course of his boundary in that quarter, it turned out, that instead of crossing the new canal, called Carondelet, as it ought to have done, according to the said plan, we struck one of the arms or branches of the Bayou St. John; which being seen by the said Don Juan B. Macarty, and also the damages which he had sustained by cutting wood on his property, and the difficulties he had in finding out the original boundaries: in order to obviate every difficulty, and make a definitive conclusion, the said Macarty applied to the Baron de Carondelet, who was then Governor-General, soliciting that he would grant to him the said Canal as a boundary, and a line prolonged from the point where the line which divides the property (Mr. Griffon and that of the successors of Moro following the same course as that line), till it meets that already drawn as far as the aforesaid most western arm of the Bayou St. John; and that in return for which grant he would abandon to the Crown the lands which be-

longed to him, to the north of the aforesaid canal. For the better understanding of which the annexed plan may serve, and I refer to all the notes, observations, and explanations found therein, in my own handwriting, and signed by my hand.

The said Baron de Carondelet made the grant to the said Macarty as solicited, by a decree of 22d December, 1795, which date is proved by the memorandum book of notes, or diary of said operations, and in the sketch which was made whilst they were in progress; but under the express condition that the boundary on the canal should be parallel thereto at one hundred feet distant from its southern margin; and that the grant should have full force and effect, if within the period of six months no person having a legal title of property should appear to claim the same land; which coming to the knowledge of Don Bertrand Gravier, after the survey and demarcation had been made and concluded by the party interested, as seen and known by all, he applied verbally to the Baron, saying that he had a right to a part of said land. Upon which the Baron had me called, and told me to return to him the memorial with the decree, in order to examine the claim of Gravier. I did so, and his Excellency kept it.

A few days afterwards I left New Orleans for Baton Rouge and Feliciana, where I remained till the present time without having known what became of said grant. As respects the copy requested of the survey chart, I declare that the copy, which the party in interest has already in his possession, certified by me, is exact and true, according to that delivered to me by the said Surveyor-General (although in a bad plight), and which is no longer in my possession.

In testimony whereof, I sign in Baton Rouge, 12th May, 1804,

VINCENT SEBASTIAN PINTADO.

Certificate.

Don Carlos de Grandpre, Colonel in the Royal Army, Political and Military Governor of the fortified town of and establishments at Baton Rouge, in the Province of Louisiana, &c.:

I certify that the foregoing declaration is the same that was made, written, and signed in his own hand and signature, by the Captain of Militia Cavalry, Don Vincent Pintado, Deputy Surveyor of the Province, as also the figurative plan annexed of the land mentioned, to both whereof full faith is to be given, as well judicially as extra-judicially; and in testimony whereof, I give the present, signed by my hand and sealed with the seal of my arms, in Baton Rouge, 12th May, 1804.

CHARLES DE GRANDPRE.

Certificate.

Don Sebastian Calvo de la Puerto y O'Farrel, Marquis of Casa Calvo, Knight of the Order of Santiago, Brigadier in the Royal Army, Colonel of the Infantry Regiment of Havana, Commissioner of his Majesty for the demarcation of the Boundaries of the Province of Louisiana, &c.

According to information derived from the Secretary of the Government in the time of the Baron de Carondelet, formerly Governor of these Provinces, I certify that what is stated in the foregoing report of the Deputy Surveyor, General Don Sebastian Vincent Pintado, and the plan to which he refers, are found to correspond with the memorandum (*memorea*) which said Secretary preserves of the facts treated of in this document, not being able to call to mind the motives that induced the Baron aforesaid to take back the decree of concession, nor what has become of it.

In testimony whereof I have given these presents, signed by my hand, sealed with the seal of my arms, and countersigned by the undersigned, Honorary Commissary of War, and who is now of the Commission in New Orleans, 24th July, 1805.

EL MARQUIS DE CASA CALVO.
ANDRES LOPEZ ARMISTO.

Translation (from the French).

Defendants' No. 7. *Offered* 10*th May*, 1853.

Testimony.

To prove the issue of Patent for Land to J. B. McCarty, on 22*d December*, 1796.

Certificate.

I, the undersigned, Surveyor, Deputy of the Surveyor-General of the Territories south of the Tennessee, for the County of Orleans, certify to the best of my knowledge, that on the 22d December, 1795, there was granted to J. B. McCarty a portion of land fronting on the Canal Carondelet, and extending in depth, and that, moreover, that there does not exist any other grant of the said land, made to any other person prior to this date. I certify, moreover, that this land is beyond the grants made by Congress to the Corporation of the City of New Orleans and to the Marquis of Lafayette; the before-mentioned land designated (as it is) on a plan drawn by Pintado, Surveyor to the Spanish Government, now in possession of B. McCarty.

(Signed) LAFON.

New Orleans, 16th August, 1820.

Certificate.

I, the undersigned, certify that I have had opportunities of seeing an infinite number of times the writing and the signature of Mr. Lafon, from whence I declare that the certificate and the signature at foot are in the handwriting of Mr. Lafon.

I declare, moreover, that it is within my knowledge that the three hundred toises granted by Congress to the corporation of the City of New Orleans, do not reach to the boundary of the lands claimed by Mr. B. McCarty. In faith whereof, I have given this certificate.

(Signed) J. PELIR.

New Orleans, 11th December, 1820.

[Here follows English certificate, &c.]

No. 103.

Land Office, New Orleans.

Barthelemy McCarty claims by inheritance from his father, John Baptiste McCarty, a tract of land situated back of the City of New Orleans, bounded on the north side by the Canal Carondelet, the Bayou St. John, and part of Rodriguez land, on the northwest side by lands of the claimant, on the southwest side by lands of the claimant and lines of Bori, and on the southeast by vacant lands, measuring about thirteen hundred superficial acres.

The land was formerly claimed before the late Board of Commissioners in the name of J. B. McCarty, the father of the claimant, and by them rejected on two grounds—*first*, that the claimant pretended to have had a grant from the Baron Carondelet, dated in 1795, but that it had been destroyed by fire; *secondly*, if ever the grant was made it was clearly apparent to the Board that the said land was covered with other grants long antecedent to that made to the claimant. It, however, is now proved by the testimony of the Surveyor (Spanish), Pintado, and by a Deputy Surveyor at the time of the Uuited States, that the grant was made by Carondelet, and that the said Pintado did actually survey it in conformity thereto, and that the grant was not burnt but mislaid for some time, and afterwards seen by the latter witness among the papers of a certain Bd. Gravier; that it was complete and in the best form. With regard to the fact assumed by the Board that this land had been antecedently granted to others, I find no such evidence on record; on the contrary, it is now proved by B. Lafon and J. Pelir, both surveyors, that the land in question does not interfere with any other grant; but admitting the fact, I concede the only point then as well as now to be decided is, whether the United States have any claim to said land. I am of opinion they have none, and therefore think this claim ought to be confirmed.

Register's Office, New Orleans.

I, B. Z. Canonge, Register of the Land Office at New Orleans, do hereby certify the foregoing to be a true copy taken from the "Reports on Land Claims," of the late Register of this district, on record in this office, which said *Reports* bear date the 6th of January, 1821, and were confirmed by an Act of Congress of the 28th February, 1823.

In faith whereof, I hereunto subscribe my name, this 14th day of June, 1837.

B. Z. CANONGE,
Register.

Declaration.

Personally appeared before me, Pierre Megotier, who, under oath, declared that, as overseer, he conducted the plantation of Mr. Jean B. McCarty, at the Chapetoulas; the lines of which plantation extend to the Bayou St. John, from the year 1789 to the year 1797. That, to his knowledge, J. B. Macarty obtained, in the year 1795, from the Baron de Carondelet, a grant of a piece of ground, near to the Canal Carondelet and above the Commons of this city, as is designated on a plan of the Surveyor Pintado, under date of 22d December, 1795, of which a copy, certified and signed by the said surveyor, was exhibited to him, wherein he recognized the signature as being that of Vincent Pintado, having frequently seen him sign his name; that then said Vincent Pintado was then Deputy Surveyor of Louisiana, and that he frequently acted in the place of Mr. Laveau Trudeau in his operations; that, at the essayer of the survey made by Mr. Pintado of this grant, the deponent, in his capacity of overseer, was directed by Mr. J. B. MaCarty, to have roads opened on all the lines of this grant, in order that the Surveyor Pintado might with greater ease perform the operation; that he was present at the survey made by the said Pintado, who, from distance to distance, put down landmarks which, deponent supposes, must now be rotten or destroyed, and that he made marks on several trees; that, since the date of this grant, Mr. J. B. MaCarty, for a long time, enjoyed the lot thus granted, and cut wood that was thereon, and placed guards upon the said land to prevent persons from the city coming there to cut wood; that it is to the knowledge of deponent, that Mr. J. B. Macarty complained to the Baron de Carondelet that, in spite of his care, and that of his guards, he could not prevent persons from town coming to cut wood on said land; and that, in order to prevent this abuse, the Baron de Carondelet at this period, had published a proclamation in order to remove the fresh complaints of Mr. MaCarty on this subject, and that by means of this proclamation and the orders of the Baron de Carondelet, the deponent many times had negroes arrested on this land, who had come from town to cut wood there; that he had them taken to jail

from whence they were subsequently withdrawn by their masters. That Mr. B. MaCarty, now the owner of the plantation that belonged to Mr. J. B. MaCarty, is the son of the said J. B. MaCarty, and that he has purchased all the rights of the coheirs to the said land or plantation.

(Signed) P. MEZOTIERE.

Sworn to and signed before me, New Orleans, 8th December, 1820.

(Signed) GALLIEN PREVAL,
Justice of the Peace (2d Justice).

Declaration.

Personally appeared before me Theodore MaCarty, who, under oath, declared, that it is to his knowledge that, in 1795, Mr. J. B. MaCarty obtained from the Baron de Carondelet the grant of a piece of land near the Canal Carondelet and above that, known as the Commons of the city; that Mr. J. B. MaCarty was in the enjoyment of this lot since 1795 until his death, and that deponent has no knowledge that during this period any person ever made any claim to this piece of land; that since the death of Mr. J. B. MaCarty, the piece of land, together with his Chapetoulas plantation, remained in possession of his heirs, and that Mr. B. MaCarty, son of Mr. J. B. MaCarty, is now the sole owner thereof, having purchased all the rights of his coheirs to the said plantation, and the said piece of land granted as above stated; that it is to the knowledge of the deponent, that Mr. J. B. MaCarty having obtained orders from the Baron de Carondelet to prevent persons from the city going there to cut wood from said land; that he, deponent, as a relative of Mr. J. B. MaCarty, obtained permission from him to cut wood on his own account, and to sell the same; that the deponent, making use of this permission, did cut wood there during three years, and sold the same in town to the knowledge of all the inhabitants thereof, and that in no instance did any person ever make opposition thereto; that deponent was specially enjoined by Mr. J. B. MaCarty to arrest negroes that came from town to cut wood on this piece of land; that deponent frequently arrested them and had them taken to prison; that since the Baron de Carondelet made this grant to Mr. J. B. MaCarty, it has always formed an integral part of Chapetoulas plantation up to the present day.

(Signed) THEODORE MACARTY.

Documents referred to in annexed Declaration.

Petition of J. B. MaCarty, in the hands of John Gravier, asks for tracing out the lines of John Gravier, until they intersect his lines prolonged to the Metairie. New Orleans, 1st December, 1795.

Decree granting the same, provided 100 feet be left on the margin of the canal. Decem. 22, 1795. (Signed) Carondelet.

Opposition of Bertrand Gravier of 27th February, 1796. The 30th June only received the plan of Pintado. Ne varietur.

(Signed) G. PREVAL.
Justice of Peace (2d Section).

New Orleans, Dec. 21, 1820.

Declaration.

Personally appeared before me, Moreau Lislet, who, under oath, declared that Mr. Barthelemy MaCarty, as owner of all the lands that his late father, Mr. J. B. MaCarty, possessed at Chapetoulas and above this city, near to the Canal Carondelet, by rate and session of his coheirs, having been at his house about the month of June or July last, with the late Mr. Lafon, surveyor, in relation to a claim which he desired to make upon the Commissioners of the Land Office, for the purpose of having confirmed a grant that his late father, Mr. J. B. MaCarty, had obtained from the Baron de Carondelet, on 22d December, 1795, of a piece of land situated above the city, near the Canal Carondelet; that Mr. B. Lafon then delivered to him, deponent, who had in charge the drawing up of the petition of Mr. By. MaCarty, a secret note in his (Lafon's) handwriting, here annexed to the present affidavit, after having been paraphed by me, *ne varietur*, in stating to him that this note contained a memorandum of an extract by him, made from an inspection of three original documents, which had been exhibited to him at the time when the late Bertrand Gravier, former proprietor of the suburb St. Mary, and the lands upon the said suburb, and which were adjacent to those of the said grant, to wit: the petition of J. B. McCarty, to obtain the said grant under date 1st Decem., 1795; the decree of the Baron de Carondelet, under date 22d December, of same year, by which the said grant was made to Mr. J. B. MaCarty, and an opposition filed by Bertrand Gravier, on the 27th February, 1796. That on this declaration, the deponent advised Mr. By. MaCarty and Lafon to go immediately to Mr. Jean Gravier, successor of Bertrand Gravier, to inquire whether the documents were not to be found among the papers of the succession of his brother, in his possession; that the said Mr. Lafon, a few days afterwards, declared to deponent that he had been twice at the house of Mr. John Gravier; that at the first visit, Mr. Gravier told him that he would make search for them, and on the second, he declared that he had not found these papers. Whereupon, deponent made Mr. Lafon promise to appear before the Commissioners of lands, to give his testimony relative to these documents, as soon as the Land Office should be organized, and that Mr. Harper, who was then absent, should come back, which did not take place as deponent stated, until about the end of November last,

and that it was about this period Mr. Lafon died, after an illness of three days; that all deponent can say to supply the deficiency of the testimony of Mr. Lafon, is, that the surveyor assured him, and told him that he was ready to make oath that during the lifetime of Mr. Bertrand Gravier, he was called on by him to make some search among the papers relative to the operations of his office, and that he saw among his papers, and read the documents mentioned in the annexed note, and that the grant made to J. B. MaCarty, by the Baron de Carondelet, on the 22d December, 1795, was a final decree in full and perfect form, and with the signature of the Baron de Carondelet, with which he was perfectly well acquainted, having had frequent opportunities of seeing it; that he knew Bertrand Gravier had had some difficulty relating to this grant, pretending that it trenched upon his lands behind the suburb St. Mary; opposition which had been carried before the Baron de Carondelet, and which had been found to be unfounded, from whence he (Lafon) had been led to conclude that these documents had, in the suit, been probably delivered to Bertrand Gravier, as was the usage under the Spanish Government, and that they had probably remained in his possession.

(Signed) LOUIS MOREAU LISLET.

(In English.) Sworn to and subscribed before me, New Orleans, this 20th day of December, 1820.

GALLINA PREVAL,
Justice of the Peace. 2d Justice.

No. 9. *Translation.*

Sale. Heirs of Widow Voisin to Andres Almonester, July 2d, 1772.

Know all men by these presents, that we, Don Pedro Voisin, Don Julian Lessessier, representing my deceased wife, Dona Marie Voisin, Don Carlos Griffon, as husband of and acting conjointly with Don Juana Voisin, Don Anna Voisin, spinster, passed my majority of twenty-five years, declare that we formally and effectively sell to Don Andres Almonester y Roxas, of this city, a plantation to us belonging, situated on the road of the Bayou St. John, containing six arpents in front, more or less, with the depth that may thereto appertain, upon which there is built a dwelling-house, with various other buildings, and negro cabins, enclosed by pickets, the whole out of repair, bounded on one side by lands of the aforesaid Don Carlos Griffon, by others of the free negress, called Martina, the same which we acquired by inheritance from the property left at her death by Dona Anna Maria Corbin, widow Voisin, our mother, she having purchased the same from Don Alexander Latel and Don Louis Dormeny de Merant, by act passed before Don Juan Bte. Gravier, who was a notary in this province, on the 13th day of the

month of November, of the past year, 1776; and we sell the same to the aforesaid, with all its entrances and outlets, uses and customs, rights and servitudes, nothing reserving thereof, free from incumbrance and mortgage, as I, the present notary, certify, after examination of the books of the office in my charge, and for the price of one thousand six hundred dollars, which we have received in cash, and which sum we acknowledge to have been delivered to our satisfaction, and the delivery whereof, not having been made at the present moment, we renounce the exception of the *non numerata pecunia*, and grant a formal receipt, and we declare that the true price and real value of the plantation and buildings included therewith, as aforesaid, is the before-mentioned sixteen hundred dollars; that they are worth no more, but, if hereafter they should be worth more by any portion whatever, thereof we make to the purchaser and to his assigns, a gift, cession, donation, pure, simple, perfect, finished and irrevocable, which the law calls *intervivos*, with the presentation before the Judge, and renunciation of the royal edict passed in the Cortes of Alcala de Honores, relative to things purchased, sold or exchanged, for more or less than the half of their true price, and the four years therein mentioned for asking the rescision of the contract to its legitimate value, this condition and renunciation being as they are, equally binding on both parties, in order that neither may allege fraud, nor enormous cheat, nor enormously attempted in case such might arise. In virtue whereof, we desist, withdraw and separate from ourselves, from the right of property, possession, lucrative ownership and dominion, which our said plantation we had and held, transferring them to said purchaser, and to his representatives and assigns, which as his own, he may possess, exchange, alienate or sell at his pleasure, by virtue of this act, which, in his favor, we execute as a testimony of formal delivery, whereby it may be seen that he has acquired its possession without the necessity of further proof, from which we exonerate him, and we bind ourselves for the security and guarantee of this sale, in due form of law, with our property, having or to have, we acknowledge, as if here inserted the clause "guarrantegen," and we renounce the laws in our favor, together with that of the general prohibition, and there being present at the execution of this act, Don Andres Almonester y Roxyas, he says I accept it in my favor, receiving as purchased, the said plantation, with whatsoever may thereunto belong and appertain, at the sum and on the terms to me sold, delivery of which is hereby acknowledged to my entire satisfaction, and formal receipt therefor granted. In testimony whereof this act is passed in the City of New Orleans, on the 2d day of the month of July, 1802, and the parties thereto are to me, notary, well known, so executed and signed the same, being witnesses thereto, Don Louis Lioto, Don Philipi Guenault, and Don Pedro Boslonnier, residents of this city, present. The original is signed Julien Lessessier, Pierre Voisin,

Carlos Griffon, Aime Voisin, J. Voisin, Andres Almonester y Roxas, before me, Leonardo Magarge, Notary Public.

A true copy of the original, remaining in my office for reference. In faith of which I have signed these presents, and affixed thereto the seal of my office, at New Orleans, the seventh day of June, in the year 1837.

(Signed) LOUIS T. CAIRE,
Notary Public.

Defendants' No. 9. *Donation for dower. Widow Voisin to her daughter, Dona Juana Voisin, wife of Dn. Carlos Griffon Donneville, December* 11, 1781.

Translation from the Spanish. Document No. 17 of printed Record. Supreme Court of the United States, No. 131, page 41.

In the City of New Orleans, on the 11th day of the month of December, 1781, before me, Notary, and witnesses undersigned, appeared Dona Ana Corbin, widow Voisin, residing in this city, to me Notary known, who declared, that whereas Don Carlos Griffon Donneville, having contracted marriage with Dona Juana Voisin, her daughter, according to the rites of our holy mother Church, in consequence whereof, and for the purpose of aiding her in bearing the expenses incident thereto, she declares by these presents, that she gives to her two arpents of land in front, by the depth that it may have, situated on the road of the Bayou St. John, the same to her belonging by purchase (with a larger portion), from Don Alexandro Latil, by an instrument of writing, executed before Don Juan Bantisto Gain, formerly a Notary in this Province, on the 13th day of the month of November, of the bygone year, 1776; bounded on one side by lands to her belonging, and on the other side by lands of the widow Moros.

Which piece of land has been estimated by persons of intelligence in her confidence, at the sum of two hundred dollars, which sum she gives as dower to her aforesaid daughter, on account, and forming part of what may come to her as her legal maternal portion, taking into consideration that no property whatever remained on the death of Don Pedro Voisin, her husband, which sum is to be brought into the common mass, to be divided among the whole of her heirs, after her decease; and being present at the execution of this act, Don Carlos Griffon, he declares that he accepts the same in his favor, receiving thereby in dower the said two arpents of land, estimated at the sum of two hundred dollars, acknowledging the same as received to his satisfaction, and grants a formal acquittance, and binds himself to hold the same property, and overtly to return it to the said Dona Juana, his wife, in case of dissolution of the marriage, or of other cases provided by law. And for the security and fulfilment of the foregoing, both the contracting parties, each, in what

respects himself or herself, bind respectively their property, having and to have, regarding as here inserted the clause *guarantigia*, and they renounce the laws in their favor, as well as the general law prohibiting the same; being present thereto, as witnesses, Don Andrian de Lasslaya, D. Luis Liotand, and Don Pedro Bertonier, residents of this city.

Note. At the execution of this Act, the parties declared that a cabin built [ ] of the said two arpents of land, is not to be taken away until it falls of itself in ruins; neither shall the said Don Carlos Griffon be permitted to construct any edifice upon the said two arpents of land which may have the effect of masking the view now had of the city. Thus executed and signed, the witnesses being the same.

The original is signed—Carlos Griffon, Anne Voisin, widow, before me.

LEONARDO MAZANGE,
Not. Pub.

A copy agreeing with the original, remaining in my office for reference. In faith whereof, I have signed these presents, and affixed thereto the seal of my office, in New Orleans, on the sixth of June, in the year 1837.

(Signed) LOUIS T. CAIRE,
Not. Pub.

Defendants' No. 10. *Donation, J. L. B. Dorgenoy, Daniel Clark, Dominy Fleitas, widow Castillon and Marie Michel, to New Orleans Navigation Company.*

Translation from the French Document, No. 8 of printed Record. Supreme Court of the United States, No. 131, page 51.

Before me, Notary Public, residing in New Orleans, and the undersigned witnesses, formally appeared Messrs. F. J. Le Breton Dorgenoy, Chew and Relfe, as attorney in fact for Mr. Daniel Clark, Dominy Fleitas, Madame Louise de la Ronda, widow Castillon.

And the free negress, named Marie Michel, represented by the said Mr. Le Breton Dorgenoy, all owners of land on the Bayou St. John, situated on the margin of and beyond the Canal Carondelet, now of this city, and by these presents, declared to me that they had given and granted, as they give and grant in perpetuity, to the Navigation Company of New Orleans, and in their name to Mr. James Pitot, President thereof, here present and accepting for the said Company, their successors and assigns, the full and entire liberty of enlarging the Canal Carondelet to the extent of twenty-five feet, and to take, moreover, from their property, on each side, a road of the width of sixty feet; in consideration whereof, the said Navigation Company, as an indemnity for the donation which they

make to the Company, grant to them as well as to their heirs and assigns, in perpetuity, the permission to drain off their water into the said Canal Carondelet, by the ditches which may conduct the same thereto, and to navigate from the waters of their said plantations to the city, without any person whatsoever, by order of the direction, exacting from them any retribution, at any time whatsoever.

The foregoing was thus willed, agreed to, stipulated and mutually accepted by the said contracting parties, who engaged themselves to the full execution thereof, under the penalty of all expenses, damages and interests. It is well understood that the above-mentioned land ceded, as well for the widening of the Canal as for the route to be made on the right and on the left of this same Canal, shall never be employed for any other purpose than that stipulated in the present act. It is, moreover, understood, that any other act prior to the present, having the same purpose in view, or that of any draining canal, whatsoever, shall be considered as non existing, even should it be signed by the Commissioners; premising, binding themselves and renouncing, &c.

Done and passed in my office, at New Orleans, the 8th July, 1811, and the 36th of American Independence; and on the reading over, the contracting parties ratified and confirmed the contents of this act, and signed the same, as also Messrs. D. C. Williams and D. Wright, competent witnesses, resident inhabitants present, and I, the said Notary.

Whereupon this act. The original is signed, James Pitot, President of the Navigation Company, Daniel Clark, Chew and Relfe, Dominy Fleitas, F. J. Le Breton Dorgenoy, as well for myself as representing the free negress, Marie Michel.

STEPHEN DE QUINONES,
Not. Pub.

I certify the foregoing to be a copy conforming to the original, remaining deposited in my office for reference. In faith whereof, I have signed these presents, and caused the seal of my office to be affixed thereto, at New Orleans, the third of December, of the year 1821, and the 46th of American Independence.

[L. S.] (Signed) CHRISTOVAL DE ARMAS,
Not. Pub.

Translation (from the French).

Defendants' No. 11. *Offered* 10*th May*, 1853. 2111, 2116, 2143.

Sale.

Jean Marie Griffon, Marie T. Suzette Griffon, Marie F. Odile Griffon, to The Corporation.

In the City of New Orleans, State of Louisiana, this 16th March,

1827, and 51st year of the Independence of the United States of America,

Before Felix de Armas, Notary Public, duly commissioned in and for the City and Parish of New Orleans, therein residing, and in presence of the witnesses hereinafter named and undersigned,

Personally appeared, Mr. Jean Marie Griffon, Miss Marie Thomas Suzette Griffon, and Miss Marie Francoise Odile Griffon, of lawful age, residing in this city;

Which gentleman and young ladies jointly, by these presents, have sold, ceded, and transferred from this time and forever, with all legal warrantees,

To the Corporation of this City of New Orleans, here represented by the Honorable Joseph Roffignac, Mayor of this said city, therein residing, and stipulating in the name of the said corporation, of the Mayor, Aldermen, and Inhabitants of this said city, in virtue of two resolutions of the City Council, adopted in their sittings—the first of said resolutions under date of 27th January last, approved the 29th of same, and the second, under date of 3d of current, approved on the 5th of same; certified copies of which are and remain hereunto attached for reference, a portion of land, of which each of the vendors is owner of an undivided third part, the said portion being of a rhomboidal form, having, in French measure, a length of three hundred and eighty-three feet, by a breadth of forty feet, measured *measured* squarely, and containing fifteen thousand three hundred twenty superficial feet, and taken by the said corporation from the lands of the vendors, for the draining canal, which the city had dug on the prolongation of the middle of Canal Street; such in short, as the said portion of land is found described on a plan drawn the first of this current month, by Mr. Joseph Pilie, City Surveyor, which plan, signed by the parties, and paraphed *ne varietur*, is also hereunto annexed for reference.

This same portion of land forms a part of a plantation, two arpents in front on the Bayou St. John Road, to the left in going [from the city], by a depth of thirty-five arpents, bounded on one side by Mr. Edmond J. Forstall, and on the other by Mark Duplessis, a free woman of color, which plantation, by act before , then a Notary in this city, under date of 11th December, 1781, was given under valuation by Madame Anne Corbin, widow of the late Mr. Pierre Voisin, to Mr. Charles Antoine Griffon, her son-in-law, to meet the expenses of the marriage then contracted between the latter and Mademoiselle Marie Jeanne Voisin, daughter of the donor.

The said Miss Voisin, wife of Griffon, by her will, made on the 12th November, 1787, drawn up by Fernando Rodriguez, then a Notary in this city, instituted the said Mr. Charles Antoine Griffon, her husband, as her universal legatee, and she died on the 14th of the same month of November, 1787, without leaving ascendants or descendants, we say, in all probability, in consequence of the decla-

ration which the said Madame Voisin, wife of Griffon, made in her will, of a date anterior to that which has just been mentioned, and under date of , in the office of , then a Notary in this city, and again, without ascendants, in all probability, as well by reason of the declaration made by the said Demoiselle Voisin, wife of Griffon, in her will of 12th November, 1787, before mentioned, as because of said demise, and of her interment, which took place on the 14th of the said month and year, as proved by the entry made in the Book of Deaths, kept in the Church of St. Louis, of this city, Register No. 3, folio 12, and continuation No. 343. Moreover, the vendors engage, if thereunto required, to prove the same in due season.

The said Mr. Charles Antoine Griffon, therefore remained sole proprietor of this land, as universal legatee of the said lady, his wife.

Some years afterwards, the said Mr. Charles Antoine Griffon contracted a second marriage with Mlle. Suzanne Peyroux, now his widow, and died in this city on 2d August, 1811, leaving as his sole and only heirs, his five children, issue of his second marriage, to wit: The three vendors of this act, and Mrs. Hugues, Marie Danville Griffon, and Demoiselle Henrietta Palmyra Griffon, wife of Thomas Barrett.

On the 5th of October, 1826, by act before Hugh K. Gordon, Notary, in this city, the said Mrs. Hugues, Marie Danville Griffon, sold to Mr. Jean Marie Griffon (the seller in this act), her fifth undivided part of the said plantation. On the 6th October, of the same year, before the same Notary, Gordon, the said Madame Barrett sold also to the said Mr. Jean Marie Griffon, her fifth of the said plantation. And on the 10th of November, 1826, by act passed before Louise T. Caire, a Notary, in this city, of exchange and partition between the said vendors in this act, it resulted that each of them remained owner of one-third undivided part of said plantation, which act of 10th November, 1826, refers to another act of 8th of (same) current month, passed before the same Notary, and which serves as an explanation of the subsequent act.

The present sale is made under the express reservation made by the vendors, of draining off the surplus of their lands into the said draining canal, and to be allowed at all times, to have a free passage over the whole extent of the portion now sold, and to be allowed to establish bridges over the said canal, to facilitate to them the crossing.

The present sale is, moreover, made for and in consideration of six hundred twelve dollars and eighty cents, being at the rate of four cents a foot of superficial land, a price which the said corporation paid the proprietors of lands taken for excavating the Canal Girod, as appears by the act of 14th July, 1825, passed before the undersigned Notary, and upon which terms the said Honorable Mayor, by the aforesaid resolution of 27th January last, was authorized to settle

with the present vendors ; which said sum of six hundred and twelve dollars and eighty cents, the said Honorable Mayor, in conformity with the prescribed resolution of 3d current, will pay, by three orders by him subscribed in his said capacity, for the sum of two hundred four dollars twenty-six and two-thirds cents, each bearing date herewith, and payable at four months from date ; one of the said orders drawn to the order of the said Mr. Jean Marie Griffon, another to the order of the said young lady, Marie Thomas Suzette Griffon, and another to the order of the said Demoiselle Marie Francoise Odele Griffon, to whom the said orders were respectively delivered, as they so acknowledge, each for himself or herself, and grant a discharge.

In consideration whereof, the vendors cede and transfer to the said Corporation, as before represented, all the rights of property, which they have or may have to the said portion of land now sold, in order that the said Corporation, who is in possession of the same for more than seven years, as is acknowledged by the said honorable Mayor, and for which possession it is the intention of the vendors to hold the said Corporation fully acquitted and discharged, may enjoy, make use, and dispose of the same on the terms of this act.

By the certificate of the Recorder of Mortgages in this city, under date of 14th current, renewed this day, and hereunto annexed for reference, there is no other mortgage recorded against the said Jean Marie Griffon upon the aforesaid portion of land, than that which he gave for his undivided third part in the said plantation and other property by act passed before Hugues Lavergne, a notary in this city, under date of 17th November of last year, in favor of Messrs. Peyroux and Ricardi, as security for their endorsements to the extent of the sum of three thousand dollars ; there is besides against the said Mr. Jean Marie Griffon the general mortgage in favor of Madame Julienne Josephine Chazal de la Villabelle, his wife, resulting from their marriage contract passed before Phillippi Pedesclaux, then a notary, dated 7th January, 1817.

According to the same certificate, there is no mortgage recorded against the said Demoiselles Marie Thomas Suzette Griffon and Marie Francoise Odele Griffon, upon the said portion of lands.

As respects the first mortgage herein stated against the said Mr. Jean Marie Griffon, personally appeared Mr. Silvain Peyroux, one of the firm of the said Peyroux & Rivardi, who purely and simply raised the mortgage so far only as applies to the portion of land which is the object of this act ; with this exception, the precited hypothecary act remains in full force and virtue.

And as respects the second mortgage stated to exist against the said Mr. Jean Marie Griffon, personally appeared the said Madame Marie Julienne Josephine Chazal de la Villabelle, his wife, and by him duly authorized, who, after the reading to her of this act by the undersigned notary, declared that she gave her consent thereto, and ap-

proved of the same in all its parts; and the said Madame Griffon having declared to the undersigned notary, that it was her intention to renounce all her rights of mortgage, privileges, and other rights, which she might have to and over the aforesaid portion of land, the object of this act, the said notary duly informed her that, according to the laws 23d and 33d of the 13th Book of the 5th Partido, and of the 17th law title, 11th of the 4th Partido, as well as by the Articles 53 and 62 of title 5th, Book 3d of the ancient civil code of this State, and the articles 2355, 2367, and 3287 of the new code, the wife has a tacit mortgage on the immovable property of her husband, first, for the restitution of her dower or for replacing dotal property which she brought in marriage (and this to be counted from the day of the celebration of said marriage); second, for the restitution or the replacing of dotal property, which she might have acquired during her marriage, whether by inheritance or donation, and this from the day the succession in her favor is opened, or from the day in which the donation takes effect; third, for indemnity for debts which she might have contracted with her husband, for as well as replacing her own property alienated from the day of the obligation or of the sale; fourth, for the security of obligations imposed on the husband in the case wherein he should have enjoyed the paraphernal property of his wife, or for the reimbursement of the price thereof in case they should have been alienated by the wife with his authorization, and that he should have received the price or should have otherwise profited thereby; that, according to the articles 3158 and 3182 of the said new code of this State, the wife has equally a privilege upon the movable property of her husband for the restitution of her dotal rights, and in short that, according to the law 58th title, 18th of the 3d Partido, she cannot lose all these above-mentioned rights, but by renouncing them in the form prescribed in the said law.

And the said Madame Griffon, acknowledging that she was perfectly informed of the rights which the law gives to her over the property of her husband, said and declared that she persists nevertheless in the intention which she had above manifested, and that of her entire free will and accord she formally renounces by these presents in favor of the said Corporation of New Orleans (this accepted by the said honorable Mayor), all mortgage, legal or tacit, and all privileges or other rights which the laws and articles above cited and all other laws give or may give her over the said portion of ground, whether these rights be acquired by dower, by paraphernal property, or otherwise, and that she cedes and transfers to the said Corporation all the said rights to the said portion of land, placing and subrogating in her stead and place the said Corporation by virtue of these presents, and authorizing the same to make use thereof as well judicially as extrajudicially, towards and against any legal claimant.

Done and passed at New Orleans, in my office, the day, month, and year above written, in presence of Messrs. Jean Baptiste Dordemier, Jr., and Charles Janin, competent witnesses, here residing, and all the appearers with the notary and witnesses have signed these presents after the same had been read.

The original signed { J. Roffignac, Odile Griffon, Suzette Griffon, Jn. Griffon, Chazal Griffon, Silv. Peyroux, Moreau Lislet, City-Attorney, Charles Janin, J. B. Dordemier, fils, Felix de Armas, N. Pub.

I, the undersigned Notary, Notary depository of the Archives of the late Felix de Armas, formerly a notary in this city, certify, that the foregoing is a faithful copy of the original act passed by said notary.

In faith whereof I have hereunto set my signature and seal of office, at New Orleans, this 16th March, 1853.

JOHN CLAIBORNE,
Notary Public.

Resolution.

City Council of New Orleans. Sitting of 27th January, 1827.

Resolved, That the Mayor is authorized to settle with Jean Odele and Suzette Griffon for the portion of land their property, which was taken for excavating the canal in Canal Street, upon the terms and at the same price which the Corporation paid the owners of the land taken for digging the Canal Girod.

(Signed) D. PRIEUR,
Recorder.

Approved the 29th January, 1827.

JOSEPH ROFFIGNAC,
Mayor,

A true copy.

JULES DAVEZAC.

Resolution.

City Council of New Orleans. Sitting of 3d March, 1827.

Resolved, that the Mayor is authorized to make the payment mentioned in the Resolution of 27th January last, in favor of the Heirs of Griffon, by giving them, for their respective shares, drafts at four months, to the order of the corporation.

D. PRIEUR,
Recorder.

Approved the 5th March, 1827.

J. ROFFIGNAC,
Mayor.

A true copy.

JULES DAVEZAC.

A true copy of the two resolutions annexed to an act of sale, 16th March, 1827, passed before the late Felix de Armas, Notary Public to the Corporation, by Jean M. Griffon, and Miss Marie T. Suzette Griffon, and Marie F. Odele Griffon.

JOHN CLAIBORNE,
Notary Public.

New Orleans, March 15th, 1853.

Plan of a portion of land of the rhomboidal figure A,B, C, D, having, in French measure, 383 feet long by 40 feet wide, measured squared it contains 15,320 superficial feet, taken by the Corporation of the City from the lands of Mr. Griffon, for the draining canal that this city had dug, on the prolongation of the middle of Canal Street. Ne varietur. (Signed) JH. PILIE,
City Surveyor.

March 16, 1827.

(Signed)
ODILE GRIFFON, SUZETTE GRIFFON, JN. GRIFFON.
FELIX DE ARMAS,
Notary Public

[For plan, see original, page 131.]

New Orleans, March 15, 1853.

A true copy of the original plan, annexed to an act of sale of a portion of land, by Mr. Jean Marie Griffon, and Misses Marie T. Suzette Griffon, and Marie F. Odile Griffon, to the Corporation, passed before F. de Armas, 16th March, 1827.

JOHN CLAIBORNE,
Notary Public.

Defendants' No. 12. *Sale of Property. Carlos de Morant to Pablo Moreau. April* 25, 1775.

Translated from the Spanish. Document No. 30, of printed record. No. 131, Supreme Court of the United States, page 38.

Be it known, that I, Don Carlos de Morant, a resident of this city, declare, that I formally sell to Don Pablo Moreau, a resident of the same, a piece of land, about ten arpents, fronting on the city, by the depth of seven, running upon the Bayou St. John Road, and about twenty-two in depth, on the other side of the before-mentioned Road, with the buildings thereon, such as kitchen, hen houses, pigeon houses, brick ovens, or kilns, four drying sheds, with all appurtenances and dependencies; bounded on one side by the lot of two arpents pertaining to Don Luis Docmeni, and on the other side by the city; and on the other side of the said road, bounded by the Girard House on one side, and on the other side by lands of Don

Pedro Doliba, alias Dupart, the same to me belonging, having been purchased as adjudicated to me, in the public auction sale made of the property of Don Carlos Morant, my father, free from mortgage. My brother, the said Don Luis Docmeni, having renounced the right he had to said piece of land, as proved by the proceedings in the public sale, and on account of the portion which fell to his share in said piece of land, whereunto I, the Notary, give my attestation, and without any other incumbrance, as I, the present notary, in my capacity of recorder of mortgages, after an inspection of the books, hereby certify, and for the price of one thousand one hundred dollars, which has been to me paid by the said Don Pablo Moreau, in a cession which he makes of his rights to the sum of four hundred seven dollars and four rials to him owing by Captain Don Gilberto Mazange, for the balance of account, and remainder of his obligation, passed before me, the present notary, on the 18th December, 1772, with and for the mortgage on the plantation, he purchased of the aforesaid Gilberto Mazange, from Don Joseph Vernet, on the same date, and for the payment of which he transferred the same rights as contained in said obligation, and which to him belong by reason of said payment; and the remaining six hundred ninety-two dollars four rials he paid me in cash, which I acknowledge to have been to me delivered. I renounce the proof thereof, laws of delivery, the exception of the *non numerata pecunia*, fraud, and other laws in the premises, and I grant a formal receipt. In consideration whereof, I strip myself of, and desist from my right of property, lucrative possession, ownership, title, claim, recourse and other actions, real or personal, which to said piece of land I had and held; and the whole I cede, renounce, and transfer to the said purchaser, and to his assigns, in order that, as a thing to him belonging, from this day forward forever, he may possess, enjoy, or alienate the same at his pleasure, by virtue of this act, which I execute as a symbol of formal delivery, whereby it may be seen that he has acquired the possession thereof without the necessity of further proof, from which I exonerate him, and bind myself to the security of this sale in due form with my person and property having and to have, and I here give power to the tribunals of his Majesty to compel me to the fulfilment thereof, with the rigor of a judgment confessed and confirmed in last resort; whereupon I renounce the laws, special jurisdiction, rights and privileges in my favor, with the general law in due form prohibiting the same. And being now present, the said Pablo Moreau, he says, I accept this instrument of writing, and thereby receive as purchased the said piece of land, for the sum at which it is to me sold, the delivery of which I acknowledge. I renounce the proof, laws of delivery, that of the thing unseen nor received, fraud, and other laws in the premises, and I bind myself that the cession which I make him of the said four hundred and seven dollars, due for balance of the precited obligation, shall be firm and

sure, whereupon, I transfer and set over to him the said obligation, with the rights to me thereunto belonging, and for this purpose I give him a certified copy of these proceedings, executed in the City of New Orleans, the 25th April, 1775, being witnesses thereto, Don Leonardo Mazange, Don Luis Liotan, and Don Antonio Thomasoni, residents of this city, present with the parties contracting, and Don Luis Docmeni for the part in which he is acting, with whom I, the notary, attest are to me known, and they signed this act.

The original is signed, Charles de Morant, Pablo Moreau, Docmeni de Morand. Before me,

JUAN BAUTISTA GARCIA,
Notary Public.

This copy agrees with the original, deposited in my office for reference. In testimony whereof, I have signed these presents, in New Orleans, the 14th February, 1838.

[L. S.] (Signed) LOUIS T. CAIRE,
Notary Public.

Letter from Trudeau to a party not designated, April 26, 1794.

Translation from the French. Document No. 35, of printed record. No. 131, of the Supreme Court of the United States, at page 56.

April 26, 1794.

At the moment your negress handed me your letter, I was occupied with several persons to such a degree that she disappeared before I broke the seal. As there must be in my office a minute of my operations, I thought I would retain the rough copy you sent me; but in order to replace it, I will make a copy on Monday, or at least Tuesday, and you will have one of the two.

The title of Mr. Macarty is a second depth that was granted to Mr. Le Breton on 6th October, 1757, being a continuation of his land on the Mississippi, until it meets the boundary line of Mr. Joseph Girardy, of the Bayou St. John. To the same title-deed is annexed the certificate of Mr. Oliver Devezin (then surveyor), which states that he prolonged this line to within view of the said Joseph Girardy's house. Your boundary line, if prolonged, would pass at least twenty arpents to the south of the forks of the Bayou; they must therefore extend until they fall in with some other person's property; consequently Mr. Macarty alone can prejudice you; otherwise you would truly extend to the rear of the Messrs. Beaulicue, leaving the forks of the Bayou at least twenty arpents to the north.

I have the honor to be, affectionately,

Your very humble and obedient servant,

(Signed) TRUDEAU.

No. 14. Proces verbal of O. Devezin, of 13th of April, 1765.

Note—This is copied on pages 174 to 176.

No. 15. See proces verbal on 174 to 176 of this document.

[For plan, see original, page 137.]

Translation from the Spanish. Document 2111, 2116, 2143. *Defendants' No.* 16, *offered* 10*th May*, 1853.

Law proceedings in suit instituted by And. Almonester against J. B. Macarty, May 31, 1796.

Petition.

Don Andres Almonester y Roxas, Colonel of the disciplined Militia of the City, perpetual Recorder (*Regidor*) and Chief Ensign (*Alferai Real*) of this very illustrious city, in due form of law, reserving the right to me appertaining, and declaring that I shall make use thereof before your Excellency, I appear and say: That in the tribunal of your Excellency and before the present notary, certain proceedings are pending, instituted by Don Juan Bta. Macarty against me, relative to a right which he pretends to have to certain lands to me belonging, situated on the other side of the Bayou at the spot called *Lafourche*, and to others behind my brickyard, on the road from the city leading thereto; which lands I possess, and have been possessed by my predecessors in virtue of a final grant, and measurement, for more than thirty-six years without interruption with a title and in good faith; and for the purpose of refuting his claim and proving him to be an unjust and rash litigant, I presented all the documents thereunto belonging, and the same having been delivered to him for reference, he kept the record for more than four years, as I have been informed in the office of the said notary, and without having put in any answer, in contempt of the interlocutory decree of your Excellency; and with the depraved intention of paralyzing the manufactories I am erecting at my charge, so much recommended by the sovereign as well as useful to the State, he sent his son Don Bartholome with sundry negroes armed with pistols, guns, &c., to prevent the works which in said *Fourche* my negroes were making for commencing said manufactories; and having abused them he took from them the axes with which they were working, with threats if they returned to work on said lands, which took place on the 23d of the current month; and by reason of my verbal complaint, your Excellency having ordered the said Don Bartholome to appear, he refused to deliver up the said axes, saying that the said lands belonged to him: and as independently of the disrespect shown to the tribunal, the result is that I am deprived of them. I address myself

to the equity of your Excellency, soliciting that you will be pleased to order a restitution of that of which I was despoiled, according to law, under the engagement of pursuing the said Don Juan for the damages and losses which he has occasioned to me or may cause to said manufactories.

Wherefore I beg of your excellency, to order, as I have here solicited according to law, with costs, under oath, that I proceed not through malice, but from necessity, &c. Moreover, I say, that in consequence of this despoiling I have been informed that the said Don Juan Macarty, profiting by the opportunity of a long and serious illness, under which I have labored, has made by his own authority, a Canal, on the said my lands, situated at La Fourche, by means of which he has taken out a quantity of timber for his mill; and for the investigation of the truth herein stated, your excellency will be pleased to order, that after examination of the titles and surveys presented, a formal reinspection be made, the result communicated to me under the same engagement to make use thereof in my own right. This is the justice I beg, ut supra.

ANDRES ALMONESTER Y ROXAS.

Decree.

As respects the body of the Petition, let the axes stated therein as having been taken from the slaves of the Petitioner be restored to him, reserving the decision upon the suit. As respects the *moreover*, let it be delivered [*traslado*] to Don Juan Bautista Macarty, who will conclude the same within the ordinary period, together with that he has now pending. (Here two Rubiscas or Flourishes as signatures.) Thus decreed by the Baron de Carondelet, of the religious order of St. John, Field Marshal of the Royal Armies, Governor-General for his majesty of this Province of Louisiana, who affixed his flourish thereto, in unison with the opinion of the Lieutenant-Governor, Auditor of War, and Assessor-General of the Government of New Orleans, on the 31st May, 1796.

CARLOS XIMENEZ.

Notification.

In New Orleans, on the 1st June of the current year, I communicated the foregoing decree, to Don Andres Almonester y Roxas.

(Attest) XIMENEZ.

On the 1st June of the same year, I, the Government Notary,

in consequence of the illness of Don Carlos Ximenez, who is the Notary in this suit, made known the foregoing decree to Don Juan Bautista Macarty, who replied that he had given an order to his brother to deliver over the beforementioned axes, and that under present circumstances, being a prisoner, he could not, nor was he in a position to attend to and carry on for the present, these proceedings, all which I attest.

PEDESCLAUX,
Not.

Rejoinder.

Don Andres Almonester y Roxas, Colonel of the Militia of this city, Perpetual Recorder and Chief Engineer of this very illustrious city, on the proceedings instituted by me against Don Juan Bautista Macarty, for having through his son, Don Bartoleme, despoiled me of certain lands that have been in my possession for more than thirty-six years, and for the disrespect shown to the Court in this affair now in litigation, as therein and otherwise stated, I declare that in consequence of the decree pronounced by your Excellency on the prayer of my last petition, in which you were pleased to order that the axes taken from my slaves, when at work in my own cypress swamp, should be restored to me, he has returned them to me by one of his negroes, but in his reply to the notification made him that he should reply to the pending certified copy of my petition, he excuses himself from complying therewith under the frivolous pretext that under the circumstances, he being under arrest, he could not do so; which reply is not only contemptible but malicious, since his imprisonment did not prevent him from committing the aggression, which by his order was performed by his son against my said slave, and therefore much less could it hinder him from giving his power to another to comply with the mandate; in consideration whereof and in order to avoid fresh vexations, I have been obliged to suspend the cutting of timber intended for the buildings for the Courts and the Chapter, and have not been enabled to prosecute the same, from this cause, whereupon I protest in due form against all damages that may result therefrom, in declaring him, as I do declare him to be in default manifestly according to law. Your Excellency may be pleased to decree his contumacy, as it is more than four years since he refused to answer in respect to the authority of your Excellency, taking into his own hands the law, unduly assenting to the restitution I solicited in my said petition, and also to the examination and investigation prayed for in *my moreover*. Wherefore your excellency is prayed to decree him in default, and to order what is herein solicited, as in justice required, I swear, ask for costs, &c.

ANDRES ALMONESTER Y ROXAS.

Decree.

Reception acknowledged. Notify Don Juan Bautista Macarty, to appoint an attorney to act for him in the present cause, if he cannot conduct it himself, and that through him he put in his answer to the preceding notification, within three days.

[Here two Rubiscas or Flourishes.]

Thus decreed by the Baron de Carondelet, of the religious order of St. John, Field Marshal of the Royal Armies, Governor-General for his majesty of this Province of Louisiana, who thereunto affixed his flourish in unison with the opinion of the Lieutenant-Governor, Auditor of War, and Assessor-General of the Government, in New Orleans, June 6th, 1796.

LOUIS LESTAIR,
Royal Notary.

Notification.

In New Orleans, the same day, I notified the foregoing decree to Don Andres Almonester y Roxas.

(Attest) LESTAIR.

Notification.

In the City of New Orleans, on the 9th of June, 1796, I, Notary, in consequence of the illness of the proprietor, and occupation of the Notary, acting for him, *ad interim*, went to Fort St. Charles, where Don Joan Bautista Macarty is under arrest, and I notified to him the foregoing decree, in his proper person, and he replied that he would send the attorney, Don Filipe Guinault, to receive the proceedings, and put in his answer to the pending notification (*traslado*).

(Attest) BRONTON,
Not.

Add'l Petition.

Don Andres Almonester y Roxas, Colonel of the disciplined Militia of the fortified town, Perpetual Recorder, and Chief Engineer of this very illustrious city, in the proceedings that I am conducting against Don Juan Bautista Macarty, he having forcibly despoiled me of certain lands that for more than thirty-six years I possess, preventing the work which my negroes were therein performing, and for other matters, your Excellency was pleased to order that an answer should be put into the pending Petition (*traslado*), within three days, and that in default thereof, the costs should be exacted by force of law; and whereas the said period granted has elapsed, your Excellency will be pleased to order that it be so executed, and he being in default of which I accuse him, he be declared contumacious, and bearing in mind his disobedience and contempt of Court (*deracato*), that it be decreed and ordered as prayed for in my first

Petition. Wherefore your Excellency is prayed, that considering his default is established, you will be pleased to decree and order what I have solicited, as in justice required, I ask for costs—swear that I proceed not through malice, and in what is necessary, &c.

ANDRES ALMONESTER Y ROXAS.

Decree.

Receipt acknowledged, the period having expired; let costs be exacted by force of law and brought into Court.

[Here two flourishes.]

Thus decreed by the Baron de Carondelet, of the religious order of St. John, Field Marshal of the Royal Armies, Governor-General of this Province of Louisiana for his majesty, who affixed thereto his flourish, with the concurrent opinion of the Lieutenant-Governor, Auditor of War and Assessor-General of the Government in New Orleans, June 14th, 1796.

In New Orleans same day, I informed Don. Andres Almonester y Roxas, of the foregoing decree.

Attest.

Answer.

Don Juan Bautista Macarty, Captain of the Carbineers of this fortified town, in reply to the certified copy (*translado*) given me of the proceedings instituted against me by Don Andres Almonester y Roxas, relative to disputed lands before your Excellency, I say: that it is very unfortunate for me and very favorable to the said Don Andres Almonester, that the documents he speaks of were destroyed in the last fire of 8th December, 1794, as they comprised the most solemn and formal instruments of the (titles to the) property of the lands which the said Don Andres had for me received, and that Don Gilberto Guillemard and Don Carlos Laveau Trudeau, were convinced of the nullity of the claim which he presupposed he held thereto, whom the Governor named for the verification of his and my titles, and after his decision, which alone would ratify the right of possession of my lands and survey thereof made, he would have been condemned to pay me the accumulated damages he had caused me; but he was opposed thereto, under the specious pretext of having himself condemned by a suit at law, in order as he said to have his recourse against the vendor, which he did not carry out, but was only to excuse himself, and elude by every possible subterfuge, the payment of my just demand for the detriment I had suffered—since it is notorious in this city, that the said vendor had died insolvent, and that the said Don Andres had no other object in view than to avoid the payment of damages so legitimate that no other man but him would have refused to pay.

In consequence whereof I submit to your Excellency, that I neither

have nor will have any discussion with a man of this character: that moreover I have had drawn off from the Registers of the office of the Secretary of State, and from notarial offices, copies of some of these original titles, which were burned in the fire; and I have annexed the same to the figurative plan of my land, in order to make the application for the survey thereof. Let Don Andres do the same and apply the examination which the tribunal will order made of the surveyors. Your Excellency may be pleased to decide upon their reports what justice may require. This is what I have to say on the subject, and I abstain from replying to the nonsensical and incongruous representations of the said Don Andres. Wherefore your Excellency is prayed to be pleased to decree and order, as I have solicited, to which effect I swear, &c.

JN. BTA. MACARTY.

Order of Court.—Notification (*Translado.*)

[Here two flourishes.]

[Note by Translator.—A *translado* in Spanish Jurisdence, signifies the reference or act of delivering judicial proceedings to the adverse party, in order that on examination of them he may prepare the answer. It also signifies a copy or certified copy. Hence some little ambiguity. Not unfrequently *translado* is used for the document itself.]

Thus decreed by the Baron de Carondelet of the religious order of St. John, Field Marshal of the Royal Armies, Governor-General for his Majesty of the Province of Louisiana, who affixed thereto his flourish, with the concurrent opinion of the Lieutenant-Governor, Auditor of War and Assessor-General of the Government, in New Orleans, June 16th, 1796.

LUIS LIOTAN,
Royal Notary,

Notification.

On said day I made known to Don Andres Almonester y Roxas, Colonel of Militia of this fortified town, the foregoing documents (*translado*). Attest,

LIOTAN.

Notification.

On the same day I made known the foregoing decree to Don Juan Bautista Macarty. Attest,

LIOTAN.

Replication.

Don Andres Almonester y Rosas, Colonel of Militia of this fortified town, Chief Ensign and perpetual Recorder of this very illus-

trious city, in reply to the documents (*translado*) to me delivered, of the reply of Don Juan Macarty, to that which I have now pending in the proceedings which I instituted, pretending to have a right to certain lands of which I am in possession with title and in good faith, my predecessors having also enjoyed them in the same manner for 36 years, I now say that your Excellency will be pleased—despising as malicious the subterfuge to which he, the before-mentioned Macarty, resorts in pretending that the said proceedings were burned—to order that he present the same within a brief period, and that he reply to the aforesaid document (*translado*) and without delay, disregarding the violent and malicious spoliation of my lands, appropriating them by his own proper authority, as is proved by the fact of his having dug a canal thereon, during my well-known and long illness, which let him also pass by without notice: Your Excellency declaring that for this offence committed in contempt of the Court, without whose previous decision he could not be ignorant the said lands were in my possession, it is evident that he had lost by rule of law the right he pretended to have thereto: and finally, that your Excellency may think proper to impose a condign correction for the improper language, by which the said Macarty not only shows disrespect for the style of address which the king accords me, but has also impugned my well-known probity and distinguished character, through the false, odious imputations noted in his aforesaid answer; imputations corresponding to the audaciousness that has betrayed him into the crimes for which he is now a prisoner; ordering that the proper instruction be given him for the future to preserve the civility due to persons of my dignity and fair reputation; on which subject, if the contrary should take place, I make the most solemn and opportune protest should it be necessary, to solicit a just redress even at the foot of the throne. The clearest and most convincing proof that the burning of the record which Macarty pretends has taken place, is a senseless pretext, is that it is in evidence, according to the report of the present notary, that more than four years have elapsed since he took the record, and not having put in an answer to the documents (*translado*) then pending for the period of two years and a half that had elapsed prior to the fire in which he says it perished, it is clear that he kept them because their concealment suited him, inasmuch as the titles to my property, found amongst them, the surveys and other documents, furnished the most evident contradiction of his unjust pretensions, seeking now studiously and by stratagem, to make it appear that they were burnt up, in order to give a color to his unfounded rashness, and palliate the arbitrary, odious attributes, as the whole will be proved by the aforesaid proceedings, compelling him to deliver them up, as thus my right entitles me in order to proceed in the matter of the restitution. I have solicited, for the spoliation unjustly made, reintegration and reparation for the damages that he has occasioned to me, by digging thereon the said canal, and pre-

venting my slaves from working, with the depraved intention of paralyzing the erection of the Court and Chapter-houses, upon which subjects I insist praying that a precept may issue, commanding him to answer directly and categorically, and that it be intimated to him that he preserve the respect due to the Court, and towards me the politeness to which I am entitled, and that he be responsible for the damages which may happen to the buildings aforesaid, in consequence of the suspension of the work. *Wherefore* your Excellency *is prayed* to decree and order what is herein solicited, the same being conformable to justice, with costs; swearing that I proceed, not through malice but necessity, &c.

ANDRES ALMONESTER Y ROXAS.

Order of Court.

Notification. (Here two flourishes.)

Thus decreed by the Baron de Carondelet, of the Religious Order of St. John, Field Marshal of the Royal Armies, Governor-General for his Majesty of this Province of Louisiana, who affixed thereto his flourish, with the concurrent opinion of the Lieutenant-Governor, Auditor of War, Assessor-General of the Government of New Orleans, the 18th June, 1796.

LUIS LIOTAN,
Royal Notary.

Notification.

On said day I communicated the foregoing decree to Don Andres Almonester.

Attest: LIOTAN.

Notification.

In New Orleans, on the 23d June, 1796, I, the Notary, went to the Fort St. Charles, and being there, I made known and notified the foregoing decree to Dn. Juan Bt'a de MaCarty, and he replied that I should set down as his answer, that he never had appropriated the land in question, as he never had cut a tree thereon, and for the rest in reply to the document (*translado*) submitted to him, he refers to the answer previously put in, and he signed, which I attest.

JN. BTA. MACARTY.

Before me.

LOUIS LIOTAN,
Notary.

Decree.

Notification. (Here two flourishes.)

Thus decreed by the Baron de Carondelet, of the Religious Order

of St. John, Field Marshal of the Royal Armies, Governor-General for his Majesty of this Province of Louisiana, who affixed thereto his flourish with the concurrent opinion of the Lieutenant-Governor, Auditor of War, and Assessor-General of the Government in New Orleans, 27th June, 1796.

LUIS LIOTAN,
Notary.

Notification.

On the same day I communicated to the Colonel of Militia, Don Andres Almonester y Roxas, the foregoing degree.

Attest: LIOTAN.

Notification.

On the same day I notified the foregoing decree to Don Juan Baupta. MaCarty.

Attest: LIOTAN.

Plaintiffs' No. 12. *In rebuttal, in suit No.* 2109.

HAGAN AND LAFAYETTE
v.
CANAL BANK OF NEW ORLEANS,
L. MELLANDON et als. } No. 2621.

MOORE et als.
v.
E. BLANC. } Fourth District Court, New Orleans. No. 408.

MADAME PONTALBA,
v.
E. BLANC. } No. 423.

GRIFFON et als.
v.
EVARESTE BLANC. }

Whereas an action was brought in the above-entitled case of Hagan and Lafayette *v.* the Canal Bank of New Orleans et als., and interventions were filed in the other above-entitled case in the Fourth District Court of New Orleans, by Thomas Curry, as attorney and counsellor at law, in the name of John Hagan and Geo. W. Lafayette, who were joined therein as plaintiffs, and who therein claimed the property described in the said petition and interven-

tions; and whereas John Hagan and the heirs of General Lafayette are desirous of prosecuting their claims in the name of Lafayette only, as plaintiffs, and the said John Hagan is willing to withdraw from the said action, and leave the same to be prosecuted in the name and under the directions of the heirs of Lafayette as the sole plaintiffs in the same, but without admitting that he is not entitled to a portion or undivided interest of, in, or to the said property, or in any manner abandoning or relinquishing any rights, title, or interest which he may have in or to the same. Therefore, it is now agreed and understood between the said John Hagan (acting for himself) and Geo. Eustis, Junior, representing the said heirs of Lafayette in virtue of a power of attorney dated Paris ——— ———, 1851, as follows, to wit:

1st. That the said John Hagan shall withdraw his name from the said action and interventions, and for that purpose, now signs written consents so to do, and withdrawals to be filed in the said suits, in order to carry out the agreement and understanding, and leave the same to be prosecuted and carried on under the directions of the said heirs of Lafayette.

2d. That the said suit shall be prosecuted under the directions of the said heirs of Lafayette.

3d. That the said Hagan reserves to himself all the rights, titles, and interest which he can or may have in and to the said property, in virtue of any title, act, or instrument in writing, and derived in any way from the said Major-General Lafayette, and that it is understood by the said heirs of Lafayette, that the said John Hagan shall be at liberty to prosecute any such claims against the said heirs (who deny the existence of any such, however), without being in any manner affected by the agreement and understanding.

Made on this day, the 30th day of June, eighteen hundred and fifty-one, in the City of New Orleans.

JOHN HAGAN,
GEO. EUSTIS, JR.

Witness, WM. HAGAN.

State of Louisiana, City of New Orleans.

Be it known, that I, Achille Cheapella, a Notary Public in and for the City and Parish of New Orleans, duly commissioned and sworn, do hereby certify the foregoing to be a true copy of the original document, annexed to an act of deposit in my office, under date of the (30th) thirtieth of June, eighteen hundred and fifty-one.

In faith whereof, I grant these presents, under my signature and the impress of my seal of office, at New Orleans, this eighth day of May, eighteen hundred and fifty-three.

A. CHEAPELLA,
Notary Public.

Plaintiffs' No. 13, *in rebuttal in* 2109. *Counter-letter of John Hagan.*

MOORE et als. v. E. BLANC. } No. 408. Fourth District Court of New Orleans.

I, John Hagan, of the City of New Orleans, one of the plaintiffs named in the petition in intervention, filed in the above-entitled case, by Thomas Curry, Attorney and Counsellor-at-law, in the name of John Hagan and George W. Lafayette, do now withdraw from the said case as a party plaintiff in intervention, and consent that the cause of action set forth in the petition in intervention, may be prosecuted and carried on by the heirs of the late Major-General Lafayette, in their own names, as sole plaintiffs, either in that suit or any other.

JNO. HAGAN.

New Orleans, June 27th, 1851.

GRIFFON et als. v. EVARESTE BLANC. } Fourth District Court of New Orleans.

MADAME PONTALBA v. EVARESTE BLANC. } No. 423, Fourth District Court of New Orleans.

(NOTE.—In the originals on file, in each of the two cases here described by their titles, there is a withdrawal of John Hagan, in precisely the same language, and of the same date as the one above set forth in the case of Moore et als., which it is not deemed necessary to copy, but instead of copying, reference is here made to the above in the case of Moore et als., which is identically the same in every respect, except as to title of suit.)

Plaintiffs' No. 14, *offered in rebuttal. Claim of Mayor, Aldermen, and Inhabitants of the City of New Orleans.*

To the Honorable, the Register and Commissioners of the Eastern Land District of the Territory of Orleans:

The Mayor, Aldermen, and Inhabitants of the City of New Orleans, by Peter Derbigny and Lewis Kerr, their attorneys in this behalf, duly constituted and appointed under the corporate seal of the said city, as more fully appears by a certified copy of their letter of attorney, herewith exhibited (marked No. 1), and offered for the

purpose of being recorded at the office of the said commissioners, in the said city, this twentieth day of October, in the year of our Lord, one thousand eight hundred and six, represent and give notice that when the said city was first established, during the dominion of France in this country, a large tract of land, in the vicinity of the said city, to wit: A tract bounded on the north and east by lands granted to individuals at the settlement at the Bayou St. John, other lands granted to individuals, on the road leading from said city to the said settlement, and other lands of Marigny, at the lower end of said city; on the west by the Bayou St. John, and on the south by certain lands formerly granted to the Jesuits, which tract is designated on the plat herewith exhibited (marked No. 2), and offered for the purpose of being recorded, by the red lines L, T, O, P, Q, b, A, R, S, was demised and granted to the inhabitants of the said city, to be by them held and used as a common, forever.

That, by reason of the great distractions which prevailed in this country at the time of the cession thereof to Spain, the frequent destruction of the said city by fire, since that time, when many of the public records were lost, and the numberless other casualties to which written evidences to titles of so old a date are liable, the same with regard to the aforesaid title of the said inhabitants of the said city to the possession and use of the said common as aforesaid, or any direct testimony relating to the same, although diligently searched for, has not been found.

But that, as the said inhabitants have, at all times since the establishment of the said city, been in the undisturbed possession and use of the said land as a common, as aforesaid, by and with the permission and under the authority of the proper French and Spanish officers, from time to time, without interruption or question of their rights aforesaid, and they have cleared, reclaimed, and improved the same throughout, as far as the nature of the same would admit of, there arises a just and legal presumption of their original title to the premises, and by the right of prescription, have become and are lawfully and justly entitled to continue to hold, use and enjoy the same as aforesaid, in conformity with the laws, usages, and customs of the Spanish Government, and of the country, all of which is matter of public notoriety; but for greater certainty in this behalf, a certified extract, from the records of the Spanish Colonial Government here (marked No. 3), and a translation thereof in the English language (marked No. 4), and also a public despatch of the king of Spain (marked No. 5), and a translation thereof in the English language (marked No. 6), are herewith exhibited and offered for the purpose of being recorded, by which documents it does fully appear that the aforesaid right, title, and claim of the said inhabitants, have been from time to time recognized, acknowledged, ratified, and confirmed by the proper authorities in that behalf.

It is therefore prayed, that your honorable Board may make in-

quiry into the validity of the said claim, and for that purpose examine such witnesses and other testimony as may be necessary in that behalf, to the end that you may decide and certify that the said claim is valid, according to the form of the statutes in that case provided.

(Signed) P. DERBIGNY,
LS. KERR.

Land Office, New Orleans, 4th February, 1853.

I hereby certify the foregoing to be a true copy of the original which was filed in this office on the 20th of October, 1806, under No. 175.

In testimony whereof, I have hereunto subscribed my name, on the day and year before written.

CHARLES FRITZ,
Register.

[For Map, marked B, see original, page 158.]

Plan of the verification of surveys begun in 1796 by order of the Governor-General, the Baron de Carondelet, and continued by order of the Governor Dn. Manuel Gayoso de Lemos, until the 4th December, 1798, for the purpose of ascertaining the titles and the boundaries of the lands surrounding the commons of the City of New Orleans, which operations were performed in presence of the town mayor named by the government, Messrs. Riano and Delicant, *Regidores*, Commissioners officially named by the City Council, and Mr. Fonvergne, City Attorney, who all accompanied my operations after taking cognizance of the titles to us presented.

Charles Trudeau, being duly sworn, says and declares that he was chief engineer to his Catholic Majesty, and that the plan on the other side is a copy of an original plan now deposited in the Archives of the Corporation of the City of New Orleans, which this deponent drew up on the 24th December, 1798, by order of Mr. the Baron de Carondelet, then Governor of the Provinces of Louisiana and West Florida, for the purpose of ascertaining and fixing the commons of the City of New Orleans, which plan the deponent at that period handed in to the City Council (Cabeldo)—adding to this copy but a few observations for the better understanding of the operation.

(Signed) CHARLES TRUDEAU.

Sworn before me.

(Signed) JOHN WATKINS,
New Orleans, 14th October, 1806. Mayor.

New Orleans, 22d May, 1853.

I certify that the above plan is a copy of the copy certified by Messrs. St. Martin and Trudeau, to which I have added the parts

showing the claim of the heirs of Lafayette and the concession of Pradelles.

The claim of "Lafayette" is included in the space marked v, w, x, y; Blanc 1, 3, 14, 11; Griffon 2, 3, 12, 13; Moore 3, 5, 10, 12; Kenton, marked Carlos; Gaudiola Pontalba, 3, 5, 10, 12; Labarre & D'Orgenois, 5, 6, 9, 10; Canal Bank and others, 6, 7, 8, w, 9; Heirs of Chalon, 7, 8, v.

ALBERT G. BLANCHARD,
Deputy Surveyor.

Land Office, Southeastern District of Louisiana.

I, Louis St. Martin, Register of the Land Office at New Orleans, do hereby certify the above plat of survey to be a true copy taken from the records of my office, the same having been recorded in this office as part of the evidence produced in support of the claim of the City of New Orleans, No. 75.

In faith whereof I hereunto subscribe my name, this 11th day of November, 1847.

(Signed) L. ST. MARTIN,
Register.

Document No. 4 (*referred to in the foregoing claim*).

Extract from the Register, of the deliberations of the (Cabildo) State Council.

15th July, 1796.

There was read a representation made by the Attorney-General, setting forth, that there were continual complaints of the inhabitants of this city, saying that the inhabitants bordering upon the commons of this city prevent them from cutting wood on the said commons, under the pretence that the same belong to them (the inhabitants bordering upon the commons), and that, if it were so, the city would lose all their commons or the greater part thereof, and that nobody was invested with sufficient powers to grant away the same; that, in case there should have been some grants made since the province came under the dominion of our august King, they were to be considered null, and of no effect; and all the portions which have been so granted against law, ought to be united to the commons aforesaid. The said Attorney-General said, he was of opinion that a general survey and a demarcation of all the lands belonging to the community should be made according to the plan which shows the situation of the inhabitants on the border; that they shall be compelled to show their titles; and that those who shall be unable to show their lawful titles, be dispossessed, and that a petition be presented to his Excellency, the Governor, to that effect, praying that his Excellency may be pleased to issue his orders thereon. And the members of the

said Cabildo, after having heard the contents of this representation, granted the prayer of the Attorney-General, and resolved that after having previously given a certificate of their assent to the said representation, the same to be transmitted to the Governor and President, that his Excellency be requested to order that the object of the said prayer be carried into effect.

Signed in the original, { The Baron de Carondelet, Manuel Perez, Carlos de Lacharri, Adres Almonester y Roxas, G. Fonvergne, Francis Pascales de Labarre, Nrs. Forstati, R. J. Dueross.
Before me, PETER PEDESCLAUX,
Clerk of the Cabildo.

I certify that the present extract is conformable to the original on file in the Archives of the city.

(Signed) BOURGEOIS.

New Orleans, September 9th, 1806.

I certify that the present translation has been well and truly made to the best of my ability.

L. MOREL,

New Orleans, September 14th, 1806. Translator of the Supreme Court.

Document No. 5 was in French.

[For translation, see next and succeeding pages.]

Document No. 6.

The King, to the Governor, Civil and Military, of the Province of Louisiana, in the City of New Orleans:—I thought proper to forward to your predecessor, on the 21st day of December, 1797, a Royal letter patent, of the following tenor, viz.: "The King to the Governor, Civil and Military, of the Province of Louisiana, residing in the City of New Orleans:—In a memorial dated the 13th of March, in the last year, your predecessor, the Baron de Carondelet, informed us that the frequent and almost unavoidable robberies which are committed in that capital (where vagrants of all nations abound, because the country being open on all sides, the trade which is carried on with the Americans of the western countries, down the Ohio to the Mississippi, and with the several European nations, draws many sailors and other foreigners there), obliged him to propose to the cabildo to establish town lamps, in imitation of those at the Havana and the capitals of the Provinces of those kingdoms where they are less required than in New Orleans. That the population not amounting to six thousand souls, it was necessary to seek less expensive means, and such that all the inhabitants should contribute according to their means towards the expenses of the town lamps,

and of the watchmen; and that it having appeared to the cabildo that an annual tax of nine reals for each chimney would answer the purpose, as it was to be paid by the tenants or city inhabitants, the partition of the $3897 and four reals, which were the amount of the annual keeping of 13 watchmen and 80 lanthorns, was made accordingly, and the sum of $2178, to which the price of the lamps amounted, and all that was necessary for supporting the town lamps, according to the conditions specified in the agreement annexed to the memorial, were taken out of the funds of the city. That this establishment was immediately felt to be useful and attended with great success, the robberies having been discontinued since that time, but that on part of the city having unfortunately been reduced to ashes, by the great fire of 1794, it was questioned whether the town lamps and watchmen should be suppressed on account of the augmentation of expenses and the diminution of the persons contributing, caused by the diminution of houses; however, the circumstances of the war, the necessity of continually watching over a city composed most part of French, and of preventing the nocturnal meeting either of them or of the slaves, induced the continuance of that useful establishment on the same footing, and your predecessor was fortunate enough to find that both the cabildo and the inhabitants approved of the augmentation which he proposed of three reals per chimney, which made a total of twelve reals per chimney, to be paid whilst the principal part of the city should be rebuilding; and when the burnt houses should be rebuilt and re-established as they were previous to the fire, the tax was to be reduced to the original sum of nine reals, and even to less when the number of houses should augment. That if I should be pleased to approve that the three hundred *toises* of the commons adjacent to the city, near its fortifications, which then produced nothing, because they were overflowed during six months in the year at least, should be divided into small lots, not exceeding sixty toises in front and one hundred and fifty in depth, and granted to the inhabitants, who should offer themselves to cultivate them, provided that they would pay a small annual rent to the public treasury for the support of the town lamps, it being manifest, 1st, that in a few years the whole circumference of the city would be raised above the level of the waters, which would be drained by the owners of the lots digging ditches to carry off the water to the canal, which was nearly finished. 2dly, the many putrid, tertian and quartan fevers, caused by the corruption of the stagnant waters, and by pools, in the months of July, August and September, attended with great many deaths, would be expelled from the city. 3dly, that many poor who had no means of subsistence would devote themselves to cultivating garden vegetables, the abundance of which is very important in a hot and damp country, which is consequently exposed to scurvy. 4thly, that the product of the same gardens would augment the funds of the city, which scarcely amounts to

$7000 a year, and would not be sufficient to meet their expenses, if I should not permit these last-mentioned funds to be applied to the reduction of the contribution for the town lamps. That so many evident advantages were more than sufficient to unite all the votes in favor of the use which was proposed to be made of that part of the lands adjacent to the capital. However, when he consulted the inhabitants he found the greatest part of them inclined to leave things on the footing on which they were, but he knew that this proceeded from the particular interest of those who having plantations near the city or gardens in the city, feared that the abundance of garden vegetables would reduce the price of them, which they always kept up at the same rate, and so high that the poor could not enjoy an aliment so necessary to their health, and this is the very reason which induced my royal mind to order that the aforesaid three hundred *toises* of the lands adjacent to the city, situated contiguously to it, should be divided into small lots, which should be sold by public auction for ten years, each lot to the highest bidder; provided that every tenant should oblige himself to cultivate it and make a garden of it. Your predecessor, hoping that in consideration of the public good and of humanity, I would be pleased to order that a decree be issued that the same be executed, and also to approve and give my royal approbation to the expenses which had been incurred for the establishment of town lamps and watchmen, and to the contribution before mentioned: after having taken the same into consideration in my Council of the Indies, and taken advice from the Royal Treasury, in consequence of what was represented to me by my fiscal, after due deliberation thereon, on the 20th of December of the last year, I resolved to approve of the establishment of town lamps and watchmen, as also the expenses incurred for the purchase of the 80 lanthorns, with what was necessary for the support of the same, which may be charged, as they have been, to the city funds, on account of the extreme poverty in which the inhabitants now are; and the contribution for the town lamps and watchmen shall be established and assessed by the owners of houses, according to the number of their chimneys; as for what is relative to the division or sale at auction of the three hundred *toises*, I order you to execute the same in presence of and after having thereof given notice to the cabildo and the Attorney Syndic General, and that you give me an account and a copy of the proceedings, informing me of what may occur. Such is my will. Done in Madrid, 21st of December, 1797. I the King. By order of the King our lord, Anthony Ventura de Toranco."

Afterwards, by a letter of the 9th of May, in the following year, 1798, you gave information, with documents, that considering that the reluctance with which the inhabitants of this capital contributed and paid their monthly real per chimney for the support of the town lamps, proceeded from the contribution falling upon the poor, because their houses are small and all of them required chim-

neys, you had established in virtue of the proposition made in the city council, which you had convoked for that purpose, a new contribution upon the meat and bread, because this contribution on the 1st article did not cause the smallest prejudice to the inhabitants, since it was levied upon the extraordinary profits of the butchers, and was imperceptible on the 2d article, as it was reduced to two drachms on each loaf, and the poor did not feel that augmentation, bread being used by them only as a luxury, their daily food consisting of rice and Indian corn, and the foreigners who enjoyed that benefit would contribute by these new means, and you prayed me to approve the aforesaid contribution. After having taken this into consideration in my council, and upon the information given to me on that subject by the Royal Treasury, and the representation made me by my fiscal, it has appeared to me proper to repeat to you my within royal decree, and to give you notice that you have exceeded your powers in carrying into effect the measure proposed, without waiting for my royal approbation, contrary to the dispositions of the law 53, tit. 3, lib. 4th, and law 1st, tit. 15th, lib. 4th. And I order you, that in concert with the cabildo and the assessor, you compose a written instrument explaining the reasons why the aforesaid new plan of contribution is preferable to that established on chimneys, that the produce of said new contribution on meat and bread be ascertained, and also the expenses of town lamps and watchmen, that the said contribution be diminished or augmented, as the case may require. Such is my will, and it is also my will that the present be recorded by the Royal Treasury. Done in Aranjiur, nineteenth of May, one thousand eight hundred and one. I, the King. By order of the King our lord.

ANTONIO FOSCAL.

To the Governor of Louisiana:

Repeating to him the Royal decree which is cited, by which his predecessor had the establishment of town lamps and watchmen in the capital approved, and also the expenses for the purchase of eighty lamps, &c.

The within was recorded in the department Septentrional of the Royal Treasury of the Indies.

PEDRO APARICY.

Madrid, June the 18th, 1801.

Upon receiving this Royal decree of his Majesty and of the lords of his Supreme Court Council of the Indies, and the same being read by his Honor after the usual formalities, he said that he obeys with due respect and veneration to it, and that what is thereby decreed shall be complied with and executed. That a copy of it shall be sent to the most illustrious City Council, that upon their having deliberated on the subject mentioned in it, they may ex-

pose what they think most convenient, and that the Attorney Syndic General shall be directed to show that the new imposition established for the town-lamps, is of a greater utility than the other; and to state further, what may serve to illustrate the matter or question. Manuel Salcedo, Nicolas Maria Vidal.

Ordered by Manuel Salcedo, Colonel of the Royal Armies, &c., upon consultation of the Auditor of War.

PETER PEDESCLAUX,
Notary Public.

New Orleans, 9th April, 1802.

I certify that the present translation has been well and truly made to the best of my ability.

L. MOREL,
Translator of the Supreme Court.

New Orleans, September 14, 1806.

Land Office, New Orleans, 7th February, 1853.

I hereby certify the foregoing to be a true copy of the evidence in support of the claim of the Mayor, Aldermen, and Inhabitants of the City of New Orleans, No. 175, of record on Books No. 1 and 2, in this office.

In testimony whereof I have hereunto subscribed my name, on the day and year before written.

Bill of Exception, marked "D."—Filed.

HEIRS OF LAFAYETTE
v.
MADAME PONTALBA et als.,
HEIRS OF C. GRIFFON et als., and
HEIRS OF LE BRETON D'ORGENOIS et als.

United States Circuit Court,
Eastern District of
Louisiana.

Bill of Exception.

Be it remembered, that on the trial of the above-entitled cases, in order to show that the claims filed in the Land Office at New Orleans, by Jean Baptiste Castillon under number 308, by Charles Griffon under number 357, and by F. J. Le Breton D'Orgenois under number 381, were not embraced in the provisions of the Acts of Congress, approved March 3, 1805, April 21, 1806, and March 3, 1807; that the said claims were fraudulently presented by the said claimants with surveys made at their instance, representing tracts of land more extensive and with boundaries different from those conveyed to them, and described in the written titles under which they claimed to hold, and which were referred to in the papers filed by them respectively with their notices of their claims; and that the confirmations of said claims (which said notices of said claims with the evidence filed in support of the same, and the said confirma-

tions had been introduced in evidence by said defendants), made by the Commissioners, acting under the authority of the said Acts of Congress, were made against law by mistake and through error on the part of said Commissioners, and were obtained by said claimants by fraud and without any authority of law, and contrary to the true intent and meaning of said Acts of Congress, by means of which the said confirmations were absolutely null and void, and that in consequence thereof the said claimants and their defendants, who are their heirs or legal representatives, acquired no right, title or interest in or to the lands embraced in the said claims and confirmations introduced as aforesaid by them in evidence, so far as these conflict with the claim of plaintiffs, either by the filing of the said claims, or by the obtaining of the said confirmations.

The plaintiffs offered in evidence the following acts, instruments in writing, plats, and plans of survey, and parol evidence, viz.:

1. *Translation from the French. No.* 131, *printed Record; Supreme Court United States, Document No.* 22.

Sale.

Louis Brazillier (alias Tourangot) to Vincent Guillaume Dauberville, 10th June, 1756.

Personally appeared Mr. Louis Brazillier, alias Tourangot, an inhabitant of the Bayou St. John, who, by these presents, acknowledges and confesses, that he has this day sold, ceded, relinquished, transferred, and given up from this time forward and forever, engaging to guarantee from all troubles or impediments generally, whatsoever, to Mr. Vincent Guillaume Seuchal Dauberville, of the King's Court, in his Councils, Marine Commissary, Ordonnateur in this Colony, here present, and accepting for his, himself, his heirs, and assigns, a part of his said land and plantation of the Bayou, to be taken from the middle of the extremity of the Washwoman's Bridge, looking to the west and following the line drawn N. E. ¼ N. to S.W. ¼ S. to where it joins the common boundary between him the vendor and the land which was granted to Mr. Le Breton, and which runs from the east to the west; this line, of N. E. ¼ N. to S. W. ¼ S., is intended also to serve as the common boundary between the land which the said vendor reserves to himself towards the west and that which he now sells to the said Mr. Dauberville, by all the depth which may belong to the said land towards the east, having four arpents and twenty toises in breadth, taken and measured from south to north of the common boundary of him, the vendor, and the said Mr. Le Breton, and of another line, running from west to east, to be taken from the point in the middle of the said Washwoman's Bridge and Bayou, which will terminate the breadth north and south of the land which

the said Mr. Tourangot sells, by these presents, to the said Dauberville, who is content and satisfied therewith, he having since visited and examined it, and of which he is at liberty to put himself in possion whenever he may so judge proper, to the effect that he and his may enjoy it in full property as an estate to him belonging, in the same manner as enjoyed by the vendor, who acquired the said land with others thereunto adjoining, about twenty-two years ago, from the late Mr. Dautrive; engaging to deliver a copy of the said title to the said Mr. Dauberville, declaring the whole to be free, unincumbered, and exempt from all debts and mortgages, the said sale, cession, setting over and relinquishment thus made for and in consideration of the price and sum of eight hundred livres, which the said Mr. Dauberville has now paid in cash, and in our presence, to the said Mr. Tourangot, and which he acknowledges, and gives a discharge for the same, by virtue whereof he remains the true and free owner of the aforesaid land in the state in which it now is and may be found, its appurtenances and dependencies, without being thereby exposed to be *in*quieted thereon by anything generally whatsoever, the said vendor engaging to guarantee and indemnify towards and against any person whomsoever, as it has been so agreed by him; and to this effect he promises, binds himself, and renounces.

Done and passed at New Orleans, in the office, in the year seventeen hundred fifty-sixth, on the tenth day of June, before 12 o'clock, noon, in the house of the said Mr. Dauberville, in presence of Mr. Deverges, the King's Engineer in this colony, who measured and set landmarks to said land, in presence also of Messrs. Francois Hery, alias Duplanty, one of the guides for the said vendor, and of Louis Brazilier, his son, and of Messrs. Louis Etienne Bernard and Joseph Songy, witnesses therein residing; and the said Tourangeau, when thereto required according to law, declared that he knew not how either to write or sign his name. Signed, Dauberville, F. Hery, Brazilier, Deverges, Songy, Bernard.

CHANTALON,
Notary.

A true copy from the original on file in my office for recourse; in faith whereof, I have signed and affixed the seal of my office to these presents, in New Orleans, the fifth day of the month of June, eighteen hundred thirty-seven.

[L. S.] (Signed) LOUIS T. CAIRE,
Notary Public.

2. Sale from Louis Cesaire Le Breton to the widow of Vincent Guillaume D'Auberville, 31st May, 1757 (p. 26 of same record), as follows:

[See Defendants' No. 4, which is the same, pages 96 to 98.]

3. Sale at auction, of property of Mon. and Mad. D'Auberville, and purchase of same by Alexander Latil, 30th June, 1757, as follows:

[See Defendants' No. 4, which is the same, p. 96 to 98.]

4. Donation from Louis Cesaire Lebreton to Louis de Morant, represented by his tutor, Alexander Latel, 24th August, 1758, as follows:

[See Defendants' No. 4, which is the same, p. 96 to 98.]

5. *Translation from the French. No.* 131 *Printed Record; Supreme Court United States, Document No.* 15. *Concession—Jean Jacques Blain D'Abbadir, acting for the King of France, to A. Sieur Latil.*

At the request of Mr. Latil to us made to grant him the piece of land vacant and not granted, which is situated between that of Messeiurs Morant and that which he declares he acquired from the late Mr. D'Auberville, the whole situate in this city, fronting on the road which leads to the Bayou St. John, We, in virtue of the power to us given by the king, and taking into view the representation made in the petition of the said Mr. Latil, and the certificate of Mr. Arnold, Engineer in this colony, have granted, and by these presents do grant to him, the said piece of land, such as it shall be found, to be by him, and his heirs and assigns, enjoyed and disposed of in full property, and usufruct, as of a thing to him belonging, on the condition announced in the said certificate, and with the obligation of paying the seignorial dues, if any should hereafter be established in this colony. We reserve, moreover, to his majesty, all and every the timber necessary for the construction of forts, warehouses, and other works which he has ordered, or may hereafter order, even for the repairs and frame of his vessels, at any time, and whenever he shall have need thereof, as also for the land acquired for royal roads and fortifications.

Given in New Orleans, under the seal of our arms, and the countersign of our Secretary, the 4th August, 1764.

(Signed) D'ABBADIR.
(Countersigned) DUVERGE.

Register's Office, New Orleans.

I, B. Z. Canonge, Register of the Land Office at New Orleans, do hereby certify, the foregoing patented concession to be a true copy taken from the records now in my possession, and forming part of the archives of this office. In faith whereof, I hereunto subscribe my name, this 3d day of June, 1837.

(Signed) B. Z. CANONGE,
Register.

6. *Translation from the French. No.* 131, *Printed Record; Supreme Court United States, Document No.* 12, *Page* 29. *Survey, made at the request of Mr. Latil, by Oliver Devezin*, 1765.

Before Philip Pedesclaux, Notary Public for the City and Parish of New Orleans, and in presence of the witnesses hereinafter named, Personally appeared, Mr. Ferdinand Percy, residing in this city, who, by these presents, deposited as originals, with the undersigned notary: 1st. A copy, under date of 13th April, 1765, of the plan of the land of Mr. Dormery de Morant, situated on the road of the Bayou St. John, drawn up by Mr. Oliver Devezin, King's Counsellor, principal Inspector (voyer), and Surveyor-General of the Province of Louisiana. 2d. And the proces verbal of survey of the same land, drawn up by the said Mr. Oliver Devezin, dated on the same day, the tenor of which is as follows:

Proces Verbal.

[See Map, on page 136.]

In the year 1765, on the 12th day of the present month of April, we, King's Counsellor, principal Inspector and Surveyor-General of the Province of Louisiana, undersigned, certify and declare to all whom it may concern, that on the said day, at the instance of Mr. Latyle, formerly a military officer, and in presence of Mr. Amelot, Chief Engineer, and Lebreton, formerly a Councillor in the Superior Council of the said Province, and now Counsellor in the Mint Court (Cour des Monnaies) at Paris, we proceeded to that portion of land in the form of a trapezium, which remains between the boundary of the late Mr. Demorant, who, during his life, was a captain of civic militia, and this or pottery, belonging to Mr. Latil, below and on the left-hand side of the road from the said City of New Orleans to the Bayou St. John, the whole mentioned in our proces verbal of 16th January, and 6th February last, annexed to the disposal heretofore made by the said Lebreton to his godson, and son of the said late Mr. Morant, in order to effect or produce another form that of the said trapezium, by means of an anticipation of about fifteen to sixteen toises front, offered by the said Mr. Latyle, to be taken from the land of his pottery, on the express condition that there should be granted to him in front of the aforesaid portion of land, a free entrance from the road from the town to the avenue of his pottery, and that the dividing line should enter the said portion of land and the pottery, fixed in 1756, from east to west, and should be a line drawn parallel to that which now terminates the lands of the said brickyard, according to the plan of it which we had drawn up, hereunto annexed, by approval and consent of the said Messrs. Amelot, Lebreton, acting for Mr. Docmeny, and Mr. Latil, in what regards him, which we performed on the spot, on the 13th of the present month of April, conjointly with Mr. de St. Maurice, our assistant, in presence of the

said Mr. Latil, by a perpendicular to the point G, at nineteen feet three inches below the second landmark B, which is on the boundary line of 57° 18° from southwestwardly, terminating the depth of the land at the aforesaid-brick yard, which we measured with the chain, and followed the distance of fifty-one toises one foot to the point C, settling the above, and in other parts mentioned reciprocal arguments by taking as much as nine feet six inches below the beforementioned avenue, where we drew at right angles a line towards the depth and parallel to that before-mentioned above, in order to establish by two landmarks the boundaries of depth, and that of the dividing line between the aforesaid land of Mr. Docmeny and the pottery of Mr. Latyl. The first of these landmarks was planted at the aforesaid point C, and the second at D, thirty-eight toises further on towards the depth; the first is four feet seven inches long and six inches five lines by six inches square above, with a mortice in the lower part, and planted two feet in the ground; the second is seven feet long, eight inches eight lines by six inches six lines square below, and twenty inches in circumference at the squared top, planted three feet in the earth, with four brick-bats at the foot of each landmark, that the same might be more readily distinguished; moreover, the point of these landmarks was plumb with the top and carefully placed on the line of the aforesaid boundary, after which we drew the aforesaid lines C, D, by an angle of one hundred one degrees thirty minutes, one line parallel to the said avenue, which we measured with the chain the distance of sixteen toises four feet to the extremity of the aforesaid avenue, from which point and from which line E, C, we traced another *another* by an angle of one hundred and seventy degrees thirty-six minutes, which we chained off the distance of thirty-eight toises, where it finished at the point F, eighteen toises nine inches below the point G, of the boundary terminating the depth of said brick-yard; at which point F, there was planted, for want of a proper landmark, a stake, in order to guide with the points C, E, the direction of the enclosure fronting on the said portion of land, conformably to the plan hereunto annexed, at which point E, the intersection of the two aforesaid straight and oblique lines we planted a third landmark three feet in the earth, and as much out of the earth, seven by six inches square.

In faith whereof we have signed the present proces verbal, with the said Mr. Latyl, together with our said assistant, to serve and validate, wherein justice required. Made in duplicate at New Orleans, on the 13th of the month of April, 1765. A copy, compared with the original, the 18th of the present month and year.

(Signed) OLIVER DEVIZIN,
ST. MAURICE.

Which proces verbal, after having been duly enregistered, remains in my office, together with the aforesaid plan hereunto annexed for

reference. Done and passed in my office, at New Orleans, the 10th day of the month of July, 1821, in presence of Messrs. Michael Tourcesy and J. B. Pedesclaux, witnesses, who signed with this appearer, and the Notary.

The original signed Ferd. Sercy, J. B. Pedesclaux, Phi. Pedesclaux, Notary Public.

A true copy of the original, remaining in my office for reference. In faith whereof I have signed these presents, and affixed thereto the seal of my office, at New Orleans, the 6th July, 1837.

[L. S.] (Signed) PHI. PEDESCLAUX,
Notary Public.

7. Parole testimony of Joseph Pilie, as follows (in a printed record): Joseph Pilie, re-examined by plaintiff, says that the concessions on the Bayou Road seem to be of a small depth generally, and the plans which he has seen of lands on the Bayou Road, the concessions were generally small, and even from three to four arpents in depth; he has never seen any of the original concessions: Witness knows of no concession on the Bayou Road, extending forty arpents in depth: Witness being shown the plan 13, and the proces, says that it appears to have been made by the agreement of private individuals through the surveyor, who was the Surveyor-General at the time: Witness does not know of any order from the Governor or any public officer, to change the original lines of the supposed grant of Le Breton: Witness says that said survey No. 13, gives no depth at all: Witness says that the confiscation of the Jesuits' concession took place in 1763, and that the line of their concession previous to that time, would have been at the line now marked by him on plan No. 13 by the letters O, P.

No. 8. Copied in evidence of claim of J. B. Castillon. No. 4.

No. 9. See No. 8, offered by defendants, which is the same pages.

10. Plan of survey, &c., of the lands in the neighborhood of New Orleans, made by Laveau Trudeau, in 1796 and 1798, marked A.

[For map marked A, see original, page 178.]

Plan of the verification of surveys begun in 1796, by order of the Governor-General, the Baron de Carondelet, and continued by order of the Governor, Don Manuel Gayaso de Lemos, until the 4th December, 1798, for the purpose of ascertaining the titles and boundaries of the lands surrounding the commons of the City of New Orleans; which operations were performed in presence of the town mayor named by the government, Messrs. Riano and Delicant, *Regidores*, Commissioners officially named by the City Council, and Mr. Fonvergne, City-Attorney, who all accompanied my operations, after taking cognizance of the titles to us presented.

Charles Trudeau, being duly sworn, declares and says, that he was Chief Engineer to his Catholic Majesty, and that the plan on the other side, is a copy of an original plan now deposited in the archives of the corporation of the City of New Orleans, which this deponent drew up on the 24th December, 1798, by order of Mr. the Baron de Carondelet, then Governor of the Provinces of Louisiana and West Florida, for the purpose of ascertaining and fixing the commons of the City of New Orleans, which plan the deponent at that period handed into the City Council (Cabeldo), adding to this copy but a few observations for the better understanding of the operation,

(Signed) CARLOS TRUDEAU.

New Orleans, October 14, 1806.

Sworn before me.

JOHN WATKINS, Mayor.

Land Office, Southeastern District of Louisiana.

I, Louis St. Martin, Register of the Land Office at New Orleans, do hereby certify the above plat of survey to be a true copy, taken from the records of my office; the same having been recorded in this office, as part of the evidence produced in support of the claim of the City of New Orleans, No. 175.

In faith whereof, I hereunto subscribe my name, this 11th day of November, 1847.

L. ST. MARTIN,
Register.

11. Figurative plan of the lands in the vicinity of the City of New Orleans, extracted from the map of the former Surveyor, Bronton, corrected by the Surveyor-General, Don Carlos Trudeau, with the explanations accompanying it, contained in No. 6 of the list of evidence offered by defendants and received, and being evidence of claim of J. B. Macarty.

[See Defendants' No. 6, on page 100 to 109.]

12. Plan, or plat, and proces verbal of survey made by Charles Trudeau, Surveyor-General of Louisiana under the Spanish Government, 26th February, 1800, of a tract of land for Joseph Suarez, and the complete grant of the same to him by the Spanish authorities, 26th March, 1800; and the claim of and confirmation of the same to F. J. Le Breton D'Orgenois by the United States. Document marked F; and claim of F. J. Le Breton D'Orgenois, No. 376, and confirmation.

2 vol. Public Lands, p. 332, No. 376.

[See Defendants' No. 3, p. 91 to 95.]

Defendants' No. 1. Original Concession to Guardiola, and Survey.

Translation.

Don Ramon Lopez y Angulo, Secretary to the King, with the

administration of decrees of his Majesty's Council, Knight-pensioner of the Royal and distinguished Spanish Order of Charles III., Intendent of the Royal Treasury of the Provinces of Louisiana and Western Florida, Superintendent-General, sub-delegated Admiralty Judge, Judge of mercantile affairs, trade, and commerce, and in cases of Royal lands, lots, &c. Whereas, Don Carlos Guardiola, a resident of this city, having presented himself to this tribunal, representing that he is the owner of a piece of ground on the St. John Bayou Road, on the left-hand side in going from this said city, measuring fifty-three toises and one foot in front (where he has established his residence), without having the depth necessary to support his animals: Wherefore, there being in his rear, and in the same locality of the Bayou St. John, unoccupied Royal lands, as is attested by the measurement contained in the plan drawn up by the Royal Surveyor, D. Carlos Trudeau; he petitioned for the favor of a grant of the Royal lands, indicated in the plan under the letters (A, B, C, D, and) E, F, G, H, in his rear, on the terms granted to others, his adjoining land-owners: that having transmitted the documents to the Fiscal of the Royal Treasurer, and to the consulting attorney of this Intendency, that they might express their opinions thereon: and having done so, finding no objection to the grant solicited by the aforesaid Guardiola, I decree, in conformity, that he be furnished with the regular title of property. Wherefore, in virtue of the power vested in this Intendency in the name of the King our Lord (may God preserve him), I grant to the said D. Carlos Guardiola the Royal lands by him solicited, in the indicated locality of the Bayou St. John, from the boundary where the depth of the land of his residence terminates, continued or reduced to two parts or parcels, containing, together, forty-seven arpents, two hundred and ninety plane superficial toises, marked under the letters A, B, C, D, and E, F, G, H,—the first containing eleven arpents and two hundred and ninety plane toises, beginning in front at the line which terminates the depth of the land of his said residence, and continues to the margin of the road seventy feet wide, which is on the bank, or runs alongside of the Canal Carondelet, bounded on one side or part by lands of his neighbor, Jose Suarez, and on the other side by abandoned royal lands; and the second parcel measures two arpents in front by eighteen in depth,—this parcel of ground is bounded by the road reserved, of seventy feet in width, on the bank of the Canal Carondelet, on the outward extremity of which road this grant commences: on the side it is bounded by royal lands terminating in the rear by the boundary line of Mr. Gravier:—which concession I make to the said Don Carlos Guardiola as a favor, and without any benefit to the Royal Treasury, and upon the terms and conditions, that when he shall sell one or both of the parcels of ground included in this title, it must be to a person born in this colony or in the dominions of his Majesty, and be his vassal, or that

selling to a stranger, he must be recognized by this Intendency as a citizen-vassal of his Majesty, under the penalty of nullity of this concession. In virtue whereof, I declare the said Don Carlos Guardiola to possess entire and direct ownership over this concession, in order that he may use and enjoy the lands with which he is favored, sell, alienate, and dispose of them as he may think proper with his own, and at his pleasure, giving him leave to take possession thereof, and to make his claim before this tribunal, should he be impeded therein by any one, and in which possession I now put him, and protect him, without prejudice to third parties who may have a better right thereto, on the condition, that the said Guardiola and his successors to said land shall engage to comply with the articles of instructions framed by this Intendency relative to lands, in which he is included, respecting the locality, situation, circumstances, and qualities of the lands or funds so bestowed, under the penalties imposed in such cases, and in which no ignorance shall be pleaded at any time whatsoever: by reason whereof, I have ordered these presents to be delivered to him, signed by my hand, and countersigned by the present Notary Public of the Royal Treasury, and sealed with the seal of my arms, of which the said notary, without the necessity of further proof, from which I exonerate him, and I bind myself to the eviction, security, and reparation of this sale, in due form of law, with the property which I have or may hereafter possess. I acknowledge (as if inserted) the clause of warrantee, and I renounce the laws in my favor, as also the general law which it prohibits; and being present at the execution of the act, the aforesaid Don Carlos Guardiola, he declares that he accepts it in his favor, receiving as purchased the said land, in the sum and on the terms sold to him, acknowledging the delivery thereof to his satisfaction, and granting a formal receipt therefor. In testimony whereof, the present act is executed in New Orleans, the eleventh day of February, one thousand seven hundred and ninety-nine. I, the Notary, certify that I know the contracting parties, who signed it in presence of D. Fernando Percy, D. Celestina Lavergne, and Santiago Lemastre, residents then present.

CAIRE PEYROUX, CARLOS GUARDIOLA.

Before me. PEDRO PEDESCLAUX,
Notary Public.

Compared with the original passed before me, remaining in the archives in my possession, to which I refer; and at the request of a party interested, I grant this, in the city of New Orleans, this twenty-fifth day of May, one thousand eight hundred and ninety-nine.

PEDRO PEDESCLAUX,
Notary Public.

As, also, the principal accountant of the Exchequer will make due

note and registry as required by law. Given, at the city of New Orleans, the twentieth of May, one thousand eight hundred and one.

RAMON DE LOPEZ Y ANGULO.

By order of the Intendent.

CARLOS XIMENES.

Note.—I registered this title, pages 15 to 17 of the book under my charge, employed for this purpose.

XIMENES.

New Orleans, date *ut supra*.

New Orleans, 21st May, 1801.

For the principal accountant's office of the Army and Royal Treasury under my charge; due registry of the foregoing title was made in the book used for that purpose, on page 5 and succeeding pages, in virtue of what is therein ordered by the Intendent-General.

LEONARD.

Recorded in La., No. 1, folio 659.

J. W. GURLEY,
Register.

Don Carlos Trudeau, Royal Surveyor of the Province of Louisiana; and for individuals.

In consequence of the decree of his lordship, Don Ramon de Lopez y Angulo, Intendent-General of this Province of Louisiana, under date of the 2d of this present month and current year, I certify that I verified, fixed the boundaries of, and placed landmarks on, in favor and in the presence of Don Carlos Guardiola, attended by the adjoining neighbor, Joseph Suarez, and of two witnesses, Stephen Belligin and Molino Sauciso, two parcels of land, forming together forty-seven arpents, two hundred and ninety plane toises superficial; measured with the perch of the City of Paris, of eighteen royal feet lineal of the same city, of which one hundred square perches form the arpent *plane*, according to the land measure of this Province. Which lots adjoining each other, situated in the District of the Bayou St. John, and marked on the plan on the other side with the letters A B C D and E F G H: the first, A B C D, of eleven arpents two hundred and ninety plane toises, is bounded on the northeast by lands of the party interested; on the southwest by a road seventy feet wide, bordering on the Canal Carondelet; on the northwest by land granted to Joseph Suarez, and on the southeast by abandoned royal lands. The second parcel, marked on the same plan by the letters E F G H, measures two arpents in front, by eighteen arpents in depth; this last parcel of lands is bounded on the northeast by a reserved road, seventy feet in width, on the bank of the Canal Ca-

rondelet; on the southwest by land of Mr. Gravier, and on the remaining sides by royal lands.

The said lots are 542 toises distant from the Bayou St. John; E. S. E. in following the Canal Carondelet. The boundary lines are parallel, running in depth south 28° 45′ west, by the actual compass, without regard to the variation, the declination being eight degrees to the northeast.

On those boundary lines were placed the landmarks designated on the plan by the letters A B C D E G, all being of cypress wood. The first (A) five feet in total length by six inches square, and planted two feet in the earth. The second (B) five and one-half feet long by six inches square, its base irregularly shaped, and planted two feet in the earth. The third (C) planted twenty-three toises and one foot distant from the bank of the Canal Carondelet. The fourth (D) of cypress wood, three feet seven inches long by five and one-half inches square. The fifth (E), three feet long by five inches square, and planted at thirteen toises and two feet distance from the bank of the Canal Carondelet; and the last (G), three feet nine inches long by six inches square, planted fifteen toises and two feet from the margin of the basin of said canal; the whole whereof being demonstrated more extensively on the plan drawn up for illustration.

Note.—Whereas the lot prayed for is of fifty toises and one foot in front or width; but as it grows narrow towards the points A B, so as between these points to be but twenty-nine toises two feet in width; in order not to trench on the lands in the rear of Madame Bertram (that lady having purchased two arpents front with the depth that might be found), the party interested, Don Carlos Guardiola, solicited that there might be measured off for him two complete arpents front on the southwest side of the Canal Carondelet, with the depth as far as the boundary line of the lands of Mr. Gravier, and which in the eighteen arpents designated on said plan by the letters E P G H, all which are royal lands overflowed, and of no use but to cut wood, &c., and that the whole of the foregoing may be made manifest, I grant these presents, with the figurative plan that precedes, this ninth day of May, one thousand eight hundred and one.

Signed by me, the Surveyor.

I certify the foregoing is a correct copy of the original, delivered to the party interested, and registered in Book C, No. 3, folio 13, at the No. 1470 of the records of surveys. Date *ut supra*.

CARLOS TRUDEAU,
Royal Surveyor.

Recorded in Libri No. 1, folio 656.

J. W. GURLEY,
Surveyor.

Plan of the fore-mentioned concession.

[For plan, see original, page 187.]

Agreement, &c., as to Bill of Exception D. Filed 16th May, 1854.

HEIRS OF LAFAYETTE
v.
MADAME PONTALBA et als.,
HEIRS OF GRIFFON et als., and
HEIRS OF LE BRETON D'ORGENOIS et als.

Nos. 2111, 2116, and 2143.
United States Circuit Court,
Eastern District of Louisiana.

Admissions to stand in place of the copies of the two Records mentioned in the exception taken by the plaintiffs, marked D, and on file in these cases as follows, viz.: The Record in the suit of Almonester *v.* Kenton, mentioned in said Exception, under No. 14, in the first series of numbers therein, and the Record in the suit of Pontalba et als. *v.* Copeland et als., mentioned in said Exception, under No. 7, in the second series of numbers therein, which said Records it is agreed shall not be copied into the Record of the case to be taken up from this Court to the Supreme Court of the United States on a writ of error.

1st. It is admitted that the said suit of Almonester against Kenton, the said Kenton claimed a portion of the land embraced in the patent of plaintiffs, under a grant made to Carlos Guardiola, and that Madame Pontalba (Almonester), claimed the same under the same title set up by her in her answer filed in this case. That she gave in evidence the acts, and documents and testimony mentioned in the said Exception marked D, under Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, and that it was decided in the said suit, that her said titles did not cover any land lying beyond the line marked b N F; on the plat made by A. G. Blanchard and marked B, as shown by the decision of the Supreme Court of the State of Louisiana in said case, reported under the title of Kenton *v.* Pontalba, 1 Robinson's Reports, 347; and by the decision of the Supreme Court of the United States in said case, reported under the title of Almonester *v.* Kenton, 1 Howard's Reports.

2d. It is admitted, that, in the said suit of Pontalba *v.* Copeland, the said Madame Pontalba claimed a tract of land, the lines of which conflicted with the boundaries of the tract embraced in the title derived from J. B. Macarty and B. Macarty, set up by the defendants in their cases; that the said Copeland et als. also claimed the said land (a portion of which is represented on the said plat made by A. G. Blanchard, marked B, by the letters V M, and the figure 8), under titles derived from the said J. B. Macarty and B. Macarty, and which is one of the titles set up by the defendants in these cases; and that the decision of the Supreme Court of the State of Louisiana was against the validity of the said titles, as shown by the decision of the said Supreme Court in said case, reported in 3 Annual Reports, 86, &c.

3d. It is agreed, that the said two preceding admissions shall

be copied in the said bill of exception, marked D, at the said numbers 14 and 7, thereof respectively, and that the said bill of exception shall be held as good and valid, as if the said records had been copied therein in extenso.

Suits, No. 2111, 2116, and 2143.

L. JANIN,
Attorney for Defendants.
MILES TAYLOR,
Attorney for Plaintiffs.

15. Parole evidence that the Inhabitants of the City of New Orleans, at all times before and after the cession of Louisiana by Spain to France, and France to the United States, were in the constant habit of using all the land covered by the claim of plaintiffs according to their will and pleasure, by cutting wood upon it for their own use, and doing such other acts as suited their convenience or necessities, and that this continued for many years after the filing of the claims of defendants in the Land Office, and that defendants never had any real or actual possession of any portion of the lands claimed by the plaintiffs in these suits.

16. The claim of the Mayor, Aldermen, and Inhabitants of the City of New Orleans, filed in the Land Office at New Orleans, on the 20th of October, 1806, No. 175; with the evidence filed in support of it.

[See Plaintiffs' No. 14, in rebuttal, page 156 to 166.]

17. The third section of the Act of Congress, approved March 3d, 1807.

Sec. 3. And be it further enacted, that the claim of the Corporation of the City of New Orleans, to the commons adjacent to the said city, and within six hundred yards from the fortifications of the same, be and the same are hereby recognized and confirmed: *Provided*, that the said Corporation shall, within six months after passing this act, relinquish and release any claim they may have to such commons beyond the distance of six hundred yards aforesaid; *provided also*, that the Corporation shall reserve for the purpose, and convey gratuitously for the public benefit, to the Company authorized by the Legislature of the Territory of Orleans, as much of the said commons as shall be necessary to continue the canal of Carondelet from the present basin to the Mississippi, and shall not dispose of, for the purpose of building thereon, any lot within sixty feet of the space reserved for a canal, which shall forever remain open as a public highway: *And provided also*, that nothing herein contained shall be construed to affect or impair the rights of any individual

or individuals to the said commons, which are derived from any grant of the French or Spanish Government.

18. The claim of J. B. MaCarty, filed in the Land Office on the 24th day of November, 1806, No. 194, and that of B.Macarty, filed

of

No. 103.

[See pages 99, &c.]

19. Parole evidence, that the line in the plat of survey of a tract of land for Joseph Suarer, No. 12 in this Bill of Exception, and making part of the evidence filed by F. J. Le Breton D'Orgenois in support of his claim No. 376, represented by the letters X Y, is the same with that on the plan or plat of survey of the lands in the neighborhood of New Orleans, by Laveau Trudeau, in 1796 and 1798, marked A, and number 10 in this Bill of Exception, represented by the letters E F, and is the same with that represented as the side line towards the city of the tract of land represented by the letters O P in the figurative plan, filed by defendants as part of the evidence of the claim of J. B. MaCarty, No. 6 in the list of evidence made by the Clerk.

Parole evidence, that the line represented by the letters X Y on the plat of survey made by Laveau Trudeau on the 9th of May, 1801, of a tract of land for Carlos Guardiola, No. 13 in this Bill of Exception, and making a part of the evidence filed by Fleitas in support of his claim No. 151, is the same represented by the letters X Y on the plat filed with the claim of F. J. Le Breton D'Orgenois, and with that on the plat A, No. 10 of this Bill of Exception, represented by the letters E F.

Parole evidence, that the land represented in the said plat marked A, and No. 10 in this Bill of Exception, by the lines designated by the letters h g, T O, and in the plat made by A. G. Blanchard and filed as a diagram for the application of evidence, &c., by the letters T O and the figures 2 and 22, and lying between the line of the Gravier plantation and Canal Carondelet, made a portion of the land claimed by J. B. MaCarty in the notice of claim filed by him, and represented in the plat accompanying said claim, filed in evidence by defendants' No. 6 in the list of evidence made by the Clerk.

20. Parole evidence, that the distance from the Bayou Road at the point represented by the letter A to the point represented by the letter B on the said plat made by A. G. Blanchard, to serve as a diagram for the application of the evidence, and on the plat marked A, No. 10 in this Bill of Exception, is five arpents, and that it is fourteen arpents from the same point to Canal Carondelet; that from the point represented on the said plat by the letter N to the Bayou Road is five arpents; that from the Bayou Road at the point represented by the figure 10 to the point where the line of the claim

of Le Breton D'Orgenois, as made in the Land Office, No. 381, intersects the line E N F on the plat made by A. G. Blanchard to serve as a diagram as aforesaid, is nine arpents.

To prove—

1st. That the said Charles Griffon, J. B. Castillon, and F. J. Le Breton D'Orgenois held and possessed portions of land prior to and at the date of the cession of Louisiana from Spain to France, and from France to the United States, respectively fronting on the road running from the City of New Orleans to the Bayou St. John, and known as the Bayou Road, by virtue of written titles, derived from Louis Cesaire Lebreton and Alexander Latil, which said portions of land, so held and possessed by the said claimants, made parts of a large tract held and possessed by the said Le Breton, under a grant from the French Government, dated 29th August, 1752, which said large tract granted to said Le Breton, was bounded towards the city as represented on the plan herewith filed and marked B, to serve for the explanation of the evidence offered, by a line beginning on the said Bayou Road, at a point on the said plan represented by the letter E, and running west from that point to the Bayou St. John, at a point on said plan represented by the letter F, and of another small tract of land held and possessed by the said Latil, under a grant from the French Government, dated 4th August, 1764, which said small tract of land, granted to Latil, was situated on the south side of the said Bayou Road, on which it fronted, and was bounded in the rear by a line beginning at the southwest corner of the Morand tract, at a point represented on the said plan by the letter B, and running from the said point marked by said letter until it intersects the before-described boundary of the said Le Breton tract at a point represented on said plan by the letter N, and that no part of the land held and possessed by said claimants prior to the cession of Louisiana from Spain to France and from France to the United States, extended back from the said Bayou Road beyond the line represented on the said plan, by the said letters B, N, and F, so that the said claimants could not rightfully claim any portion of the land lying beyond the said line represented on said plat by the said letters B, N, and F.

And between said line and the line of the plantation of Gravier, represented on said plan by the letters H, Y, and T.

2d. That the portion of land lying beyond the said line represented on the said plat by the said letters B, N, and T, and between it and the said line of the plantation of the said Gravier, represented on the said plat by the said letters H, Y, T, was a part of the public domain, the use of which was enjoyed by the inhabitants of the City of New Orleans, and was not susceptible of being legally possessed by individuals, and that in point of fact no part of the said land lying beyond the said line represented on said plan, by the said letters B,

N, and T, had ever been in the possession, actual or constructive, of the said claimants; and,

3d. That the lands lying beyond the said line represented on the said plat by the said letters, and between it and the said line of said plantation of said Bertrand Gravier, and which are embraced in the claim of *claim of* plaintiffs, were claimed by the Mayor, Aldermen and Inhabitants of the City of New Orleans, both before and after the cession of Louisiana by Spain to France and by France to the United States, as having been granted to the inhabitants of said city as a common, for their common use, and that the notice of their claim was filed in the Land Office at New Orleans, under the provisions of the said Act of Congress, approved March 3d, 1805, and April 21st, 1806, on the 20th October, 1806, together with a plat of surveys made in 1796 and 1798, under the authority of the then government of Louisiana, showing the extent and situation of the said lands, so claimed as a common belonging to the said city, by definite and well-marked and ascertained boundaries, together with other evidence, and also to show that the existence of the said claim to the exclusion of all other private claims to the said lands, was recognized by section 3 of the Act of Congress, approved March 3, 1807, and that a portion of the said land lying between the said line of the said Gravier plantation and the said line represented on said plat by the letters B, N, and F, as the rear line of the said concessions to said Lebreton and Latil, and which portion is embraced in the claim of plaintiffs, to wit: The portion lying between the said Gravier plantation and the Canal Carondelet, and designated and represented on the said plat marked A, by the letters T, O, H, and G, was also claimed by J. B. Macarty, who filed his notice of claim in the Land Office at New Orleans, under the provisions of said Acts of Congress, approved March 3d, 1805, and April 31st, 1806, on the 24th November, 1806. And further, that in order to show that the application of the said B. Macarty, filed in the Land Office at New Orleans, on the day of , under 103, to be allowed to make and produce additional proof in writing, or by witnesses, in support of the said claim made by his father, J. B. Macarty, No. 194, and the said additional proofs (which said application and additional proofs were offered and received in evidence for defendants, as confirmed by acts of Congress, approved February 28th, 1823), were fraudulently presented and made by the said B. Macarty, under the provisions of the said act of Congress, with the intent and design to obtain a confirmation of the same in fraud of the Government of the United States, and in fraud of the legal and equitable rights of other individuals in or to and upon the tract of land embraced in said claim, and that the said confirmation, if any such there was, was obtained by said B. Macarty, well knowing that he was without any just claim in law or equity to the said land or any portion of the same, under or in pursuance of any grant made or act done by the authorities of Louisi-

ana before the cession of the said territory from Spain to France or from France to the United States, or under the provisions of the said act of Congress, approved May the 11th, 1820, and February 28th, 1823, or any other, in fraud of the said acts of Congress of the Government of the United States, and of the rights of Major-General Lafayette, the ancestor of plaintiffs, and was absolutely null and void.

The plaintiffs offered in evidence the following instruments in writing, plats and plans of survey, and other papers and documents, viz.:

1. Grant to Mad. Pradel, 13th September, 1765, p. 57 of the Record of Almonester *v.* Kenton (Doc. 36).

2. Sale from Mad. Pradel to Reyward, document L, at pp. 123, 124, in the Record of Pontalba et al. *v.* Copland et als.

3. Application, evidence, &c., of J. B. Macarty, No. 194, with report thereon, and the application of B. Macarty, and evidence filed No. 103, and report thereon, as follows:

[See Defendants' No. 5, 6, or 7, either, on p. 99 to 109.]

4. *Translation. No.* 67, *Parish Court Record, Document N, page* 141 (*from the French*). *Letter, Moreau Lislet to Jean Gravier.*

New Orleans, July 10th, 1820.

Mr. John Gravier,—

Sir: I am instructed by Mr. Bartholomew Macarty, to request you to exhibit to me sundry documents relative to a lawsuit which existed between Mr. Bertrand Gravier, your brother, and the late Mr. Jean Baptista Macarty, and in which suit the following documents are found: 1st. The petition of John B. Macarty, for a grant of land by following the lines of Griffon until they fall in with his lines, which are prolonged to the Metario; said petition is dated December 1st, 1795. 2d. The decree under date 22d December, 1795, allowing the grant to which your brother had entered an opposition. These documents having been given to your brother, but as a commissioner (traslado) to reply thereto, you might, in strictness, be required to return them to the office from whence they emanated, should you not have confidence enough in me to deliver them to me on my receipt. As Mr. Macarty has no intention whatever to stir up an old quarrel, by asking you for these papers, but simply to have registered at the Land Office, a title to a grant which is improperly in your hands, he hopes that you will not refuse the reasonable request I now make, and in awaiting your reply, I have the honor to be Your very humble servant,

(Signed) MOREAU LISLET.

5. Petition of J. B. Macarty to Baron Carondelet, dated day of 1795.—Decree on it by Baron Caronde-

let, the day of 1795, offered in evidence by the legal representatives of J. B. Macarty, in the suit of Pontalba and als. *v.* Copeland and als., relating to a portion of the land embraced in the Macarty claim (to be found at pages 316, 317, and 318 of the Record in the case of Pontalba and als. *v.* Copeland and als.), as follows:

Translation from the Spanish. No. 67, *Parish Court Record. Document No.* 22, *page* 316.

Petition.

J. B. Macarty to Baron de Carondelet, for grant of land, December, 1795.

To the Governor-General:

Don Juan Bautista Macarty, Captain of the Companies of Carabineers of this city, with due respect represents to your Excellency, that on making the survey and demarcation of his lands, derived from Don Louis Cesayre Le Breton, an old inhabitant of the Colony, agreeably to the titles of concession to him granted, it results that the portion which this proprietor sold, with a front on the Bayou Road, and with the depth of ten arpents, or thereabouts, upon the parallel lines running in the rear westwardly in continuation, has been resold by one of those who purchased it, in different portions, to sundry individuals, with lines running in the depth from south fifty-seven and a half degrees west, which makes a difference towards the city of an angle of 32° 30′; and as by following the first direction from the west straight on, it would be indispensably necessary to disturb the actual possessors, who are established in ignorance of this circumstance, and in the confidence of enjoying peaceful possession, believing their boundaries inalterable, he begs that your Excellency will be pleased to grant him the continuation of this line running S. 57° 36′ from the ten arpents sold with this direction, as far as the intersection with the line of the boundary prolonged from the bank of the Mississippi for two leagues, more or less, as far as the Bayou St. John, intersecting the line of Don Bertran Gravier, at its extremity, without being of any prejudice to him; in order to avoid all disquietude in the pacific possessors and in order to be bounded by the common lands of this city, this exponent proposes, under these conditions, to make a total abandonment of the lands which are found to be to the east of the new canal of this city, from the boundary line between Griffon and Tremi, as far as the bridge of the Bayou St. John to the commons of the city, or to wheresoever your Excellency may think proper, taking the said canal as a common divisory boundary between the aforesaid lands and those of this exponent, in order in this way to avoid the dissensions and dis-

putes which may take place when the pickets and trees, serving for boundary and landmarks, may be or are torn up or broken down by those who act in bad faith, or by their negroes, who are not scrupulous in its execution.

This proposal, not prejudicial to the interests of any one, and having in its effect the enjoyment of tranquillity and good harmony by the residents, and offering the assured means of putting a stop to the unappreciable damages which heretofore various individuals have occasioned by clearing away from the greater part of their lands the best trees or timber, particularly by the negroes and mulattoes of this city, and thus prevent the damages which in future they may cause.

Your Excellency is solicited to be pleased to condescend to accept this proposition in all its parts, as the tranquillity of sundry inhabitants will flow therefrom; and having approved it, to order that the Royal Surveyor or the individual named for this purpose shall continue and conclude the demarcation and survey which could not be continued, owing to this circumstance; giving me the said canal as the boundary of my lands, and forming a general plan thereof, to serve as testimony of my property, and to obtain more formal titles, a favor which he hopes to obtain from the goodness of your Excellency.

(Signed) JN. BTA. MACARTY.

New Orleans, December, 1795.

(At foot of the preceding.)

Concession.

Baron de Carondelet to J. B. Macarty, December 22, 1795.

New Orleans, 22d December, 1795.

Granted: provided that in the period of six months no founded opposition to his Petition be by a legitimate party presented; under the precise condition that his boundary shall be at exactly one hundred feet from the bank of the new canal, on the left hand going down to the Bayou St. John, which distance must remain free for the use and servitude of the public road, trade and commerce of the same canal.

(Signed) The BARON DE CARONDELET.

6. Opposition of Gravier to Macarty's said requête, &c., for land, and all the proceedings thereon (pages 135 and following of the Record in the case of Pontalba et als. *v.* Copeland et als.) as follows:

Translation.

Opposition of Bertrand Gravier to grant to J. B. Macarty. February 27, 1796.

let, the day of 1795, offered in evidence by the legal representatives of J. B. Macarty, in the suit of Pontalba and als. *v.* Copeland and als., relating to a portion of the land embraced in the Macarty claim (to be found at pages 316, 317, and 318 of the Record in the case of Pontalba and als. *v.* Copeland and als.), as follows:

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Petition.

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To the Governor-General:

Don Juan Bautista Macarty, Captain of the Companies of Carabineers of this city, with due respect represents to your Excellency, that on making the survey and demarcation of his lands, derived from Don Louis Cesayre Le Breton, an old inhabitant of the Colony, agreeably to the titles of concession to him granted, it results that the portion which this proprietor sold, with a front on the Bayou Road, and with the depth of ten arpents, or thereabouts, upon the parallel lines running in the rear westwardly in continuation, has been resold by one of those who purchased it, in different portions, to sundry individuals, with lines running in the depth from south fifty-seven and a half degrees west, which makes a difference towards the city of an angle of 32° 30′; and as by following the first direction from the west straight on, it would be indispensably necessary to disturb the actual possessors, who are established in ignorance of this circumstance, and in the confidence of enjoying peaceful possession, believing their boundaries inalterable, he begs that your Excellency will be pleased to grant him the continuation of this line running S. 57° 36′ from the ten arpents sold with this direction, as far as the intersection with the line of the boundary prolonged from the bank of the Mississippi for two leagues, more or less, as far as the Bayou St. John, intersecting the line of Don Bertran Gravier, at its extremity, without being of any prejudice to him; in order to avoid all disquietude in the pacific possessors and in order to be bounded by the common lands of this city, this exponent proposes, under these conditions, to make a total abandonment of the lands which are found to be to the east of the new canal of this city, from the boundary line between Griffon and Tremi, as far as the bridge of the Bayou St. John to the commons of the city, or to wheresoever your Excellency may think proper, taking the said canal as a common divisory boundary between the aforesaid lands and those of this exponent, in order in this way to avoid the dissensions and dis-

putes which may take place when the pickets and trees, serving for boundary and landmarks, may be or are torn up or broken down by those who act in bad faith, or by their negroes, who are not scrupulous in its execution.

This proposal, not prejudicial to the interests of any one, and having in its effect the enjoyment of tranquillity and good harmony by the residents, and offering the assured means of putting a stop to the unappreciable damages which heretofore various individuals have occasioned by clearing away from the greater part of their lands the best trees or timber, particularly by the negroes and mulattoes of this city, and thus prevent the damages which in future they may cause.

Your Excellency is solicited to be pleased to condescend to accept this proposition in all its parts, as the tranquillity of sundry inhabitants will flow therefrom; and having approved it, to order that the Royal Surveyor or the individual named for this purpose shall continue and conclude the demarcation and survey which could not be continued, owing to this circumstance; giving me the said canal as the boundary of my lands, and forming a general plan thereof, to serve as testimony of my property, and to obtain more formal titles, a favor which he hopes to obtain from the goodness of your Excellency.

(Signed) JN. BTA. MACARTY.

New Orleans, December, 1795.

(At foot of the preceding.)

Concession.

Baron de Carondelet to J. B. Macarty, December 22, 1795.

New Orleans, 22d December, 1795.

Granted: provided that in the period of six months no founded opposition to his Petition be by a legitimate party presented; under the precise condition that his boundary shall be at exactly one hundred feet from the bank of the new canal, on the left hand going down to the Bayou St. John, which distance must remain free for the use and servitude of the public road, trade and commerce of the same canal.

(Signed) The BARON DE CARONDELET.

6. Opposition of Gravier to Macarty's said requête, &c., for land, and all the proceedings thereon (pages 135 and following of the Record in the case of Pontalba et als. *v.* Copeland et als.) as follows:

Translation.

Opposition of Bertrand Gravier to grant to J. B. Macarty. February 27, 1796.

To the Governor-General:

Don Bertran Gravier, a resident of this city, with all due respect represents to your Excellency, that having been informed that D. Juan Baut. Macarty had solicited from your Excellency, as a concession, the prolongation of the dividing line between Griffon and the lands of Moro, which runs to the south 49° 30′ west by compass, as far as where it intersects his own lands below, which begins on the banks of the Mississippi, at two leagues, more or less, from this capital, and terminates at the forks of the Bayou St. John, representing that the line would pass by the extremity of that of your petitioner without cutting it, being probably ignorant that the property of the latter extends as far as the aforesaid Bayou St. John, according to the purchase of them had and made by D. Andres Reynard, D. Alexandrina de la Chaise, and D. Jean Duplesis of this city, before D. Andres Almonester, the first, and before D. Jn. Bautista Garci, the second, as appears by the titles hereunto annexed, which vendors required them at a public auction, on account of his majesty of the property of the father Jesuits; and your Excellency having been pleased to pretension of Dn. Jn. Bta. Macarty, provided that within the period of months, no founded opposition should be made by a legitimate party to his petition, wherefore your Excellency is solicited to be pleased to direct that the Surveyor-General of this Province, or the individual that may be named for the purpose, should proceed to prolong his (your petitioner's) lines as far as the said Bayou St. John, in the same direction they lead, and in the actual presence of the neighbors abjoining the line, and with their unanimous consent, putting up landmarks and defining my boundaries before continuing the survey of the grant to the said Macarty, as in the contrary case it would embrace the third or fourth part of my lands. This (survey) taking place as respects that part remaining unoccupied, after my boundaries are traced and landmarks placed; a favor which I hope to receive from the equity of your Excellency.

(Signed) BELTRAN GRAVIER.

New Orleans, 27th February, 1796.

Let it be submitted to the Auditor of War.

(Signed) BARON DE CARONDELET.

Decree.

The petition and accompanying documents having been examined, and the grant made to D. Juan Bautista MaCarty being understood as without prejudice to third parties, and in order that it be so carried out, let the Surveyor-General, or whosoever he may designate in his plan, run the boundaries of the lands to the petitioner belong-

ing, as asked for in his petition, conformably to his titles and deeds of property, with citation of the said MaCarty and all other adjoining inhabitants; and this business performed, let the report thereof be delivered to the party interested for his protection, or that on examination thereof he may make such petition as may to him be suitable.

(Signed) CARONDELET—VIDAL.

Baron de Carondelet, Knight of the Religious Order of St. John, Field Marshal of armies, Governor-General, and ex-royal patron of the province of Louisiana and West Florida, Inspector for his Majesty of the veteran troops and militia of the same, and with the approving opinion of the V. D. D. Nicholas Maria Vidal, Lieutenant-Governor, and Auditor of War of the said Province, and Assessor-General for his Majesty of the Government of the same; and they signed, in the city of New Orleans, the 29th February, 1796.

(Signed) PEDRO PEDESCLAUX,
Notary Public.

Notification.

On the same day I notified the same to D. Beltran Gravier.
Attest (Signed): PEDESCLAUX,
Notary.

On the first of June, of this year, I notified the same to Don Juan Baptista MaCarty, and he stated, that as he was then a prisoner, he could not perform the duty assigned him by the foregoing decree.
(Attest) PEDESCLAUX,
Notary.

A true copy of the original remaining in my office for reference. In faith whereof, I have signed these presents, and affixed thereto the seal of my office, in New Orleans, the 26th February, 1838.
(Signed) LOUIS T. CAIRE,
Notary Public.

7. Record in suit of Pontalba et als. *v.* Copeland et als., to prove "*rem ipsam*" with the judgment, as follows:

[See agreement, on pages 188, &c.]

8. Plan or map made by Laveau Trudeau, Surveyor-General of Louisiana, of the verification of the surveys began in 1796, by order of the Baron Carondelet, and continued, by the order of Gov.

Gayoso, to the 4th Decr. 1798, in order to make known or show the titles and boundaries of the tracts of land surrounding the commons and city of New Orleans, as follows:

[See map B, on page 158.]

To prove 1st. That the concession pretended to have been made to J. B. MaCarty by the Baron Carondelet, on the day of 1795, was not a grant, as pretended by the said J. B. MaCarty in the notice of his claim, and the evidence in support of it, filed in the Land Office at New Orleans, on the 24th of November, 1806, and by B. MaCarty in his application to be allowed to file additional evidence in support of it, filed in said Land Office on the day of 1820, but was a mere preparatory proceeding, and conditional in its character.

2d. That opposition was made to the making of any grant of the said land, and that after various proceedings, the said J. B. MaCarty was required by the said Baron Carondelet to deliver up the papers relating to and showing the said preparatory and conditional proceeding—that they were delivered up by the said J. B. MaCarty to the said Baron Carondelet, on said requisition, and were cancelled and annulled by him, and not destroyed by fire, as falsely pretended by the said J. B. MaCarty at the time of filing his said claim, under said Acts of Congress of 1805 and 1806, and during its pendency before the Board of Commissioners acting under the said Acts of Congress, and the said Act of Congress approved March 3d, 1807; and

3d. That the said B. MaCarty was not only affected with notice of the said facts, as the heir and successor of the said J. B. MaCarty, but that he had actual notice of the same at the time of filing his said application for confirmation, in 1820, and of filing the additional proof adduced, in support of said claim, by him during the pendency of his said claim, after the filing of said additional proof, and before the said claim and evidence was reported on, and before the report on the same was laid before Congress. And that the defendant objected to the introduction of the said evidence, on the following grounds:—

1. That the claims of Jn. Bte. Castillon (Mme. Pontalba) and Charles Griffon were filed for confirmation with the Board of Commissioners, at New Orleans, Decr. 31, 1806, and the claim of J. F. Le Breton D'Orgenois, on June 20, 1808, and confirmed by said Board of Commissioners under the 2d section of the Act of Congress of March the 3d, 1807: that the claim of Jn. Bte. MaCarty was filed for confirmation with said Board of Commissioners on the 24th of November, 1806, and rejected by them, but afterwards confirmed by the first section of the Act of Congress of April 12th, 1814, and again by the Act of February 28th, 1823; that with

each of said claims, plans of survey, executed by Spanish or United States Surveyors, were filed; that all said confirmations are anterior to the survey of Genl. Lafayette's location, and to the patent thereof; that said confirmations are final as against the United States and those claiming under them, and must be understood to have been made upon said surveys, and for the land embraced in the same, and that accordingly the plaintiffs cannot contest or inquire into either the validity of said confirmations, or the correctness of the location of said claims, as shown by said surveys.

2d. That the said evidence are mainly *res inter alios acta*, or hearsay testimony.

And that the Court sustained the said objection, and decided the same should not be received, and rejected said evidence.

To which decision the plaintiffs excepted, and now except, and tender this their bill of exception, to be signed in open Court, after the same had been submitted to the opposite counsel, which is accordingly done.

J. A. CAMPBELL,
Associate Justice of the Sup. Court of the U. S.

Bill of Exception to the rejection of Claim of Lebreton D'Orgenois, No. 376, marked E.

HEIRS OF LAFAYETTE
v.
MADAME PONTALBA et als.,
HEIRS OF C. GRIFFON et als., and
HEIRS OF F. J. LE BRETON D'ORGENOIS et als.

} United States Circuit Court, Eastern District of Louisiana.

Be it remembered, that on the trial of these cases, the plaintiffs offered in evidence the claim filed in the Land Office, by F. J. Lebreton D'Orgenois, No. 376, with the evidence filed in support of the same, and the Report of the Commissioners, confirming the said claim, as follows:

[See pages , of this transcript.]

Translation from Spanish and French. Grant—Ramon Lopez de Angulo, in name of the King, to Josef Suarez, March 26th, 1800. Claim of F. J. Le Breton Dorgenoy, No. 376.

F.

Plan. Spanish.

[For plan, see original, page 210.]

Survey.

Don Carlos Trudeau, Royal Surveyor for the Province of Louisi-

ana, Surveyor for individuals, &c. In virtue of the decree of the Intendent-General of this Province, under date of the 13th February, of this current year, to me communicated by the Notary for the War Department, Don Carlos Ximenez, I certify and declare, that on the 25th day of the present month of February, I proceeded to carry into effect the verification and demarcation of the land mentioned in the preceding memorial; for which purpose we cited the Commissary of the same precinct, Don Joseph de Lisa, with the neighbor next adjoining, Don Carlos Guardiola; these gentlemen declared that they would not accompany us in this operation, to avoid going into the water, the land being entirely drowned, and very miry, and in order not to suspend the operation, we proceeded to the examination of the documents relative to this land, and ascertaining that the lot occupied by the party interested, Joseph Suarez, was divided as follows: From one portion of land that was sold by the so-called Brazillier, alias Touraugeau, to Don Guillermo Sunchal Dauberville, on the said 10th June, 1756, and the other portion was also sold to the same Dauberville by Mr. Lebreton, under date 30th May, 1757, which small parcels of land were transmitted successively to Don Alexander Latille, who sold, with a large portion of the two arpents in front, owned by the aforesaid Suarez, who had purchased them from Dona Susana Cayu, widow of Don Gabriel Peyroux, under date of 19th June, 1796, expressing in the sale "two arpents front, between parallel lines with the depth there might be." The beforementioned two arpents, already with lines traced and land marked in the front. It was necessary, in the first place, to verify the depth which the said two arpents should have, and as in the sale by Mr. Lebreton to Mr. Dauberville, the former declares that he sold six arpents fourteen toises and four feet front, with the same depth that he, Dauberville, had already bought, and according to the verification of the land sold by Touraugeau to Mr. Dauberville, declaring that he sold from the centre of the present Washwoman's Bridge, looking to the west on a line drawn S. W. ¼ S. until it strikes the common boundary of the lands that belonged formerly to Touraugeau and Lebreton, as far as the Bayou St. John, three-and-twenty arpents and ten toises, and as Touraugeau, according to the grants of 20th September, 1720, and 21st April, 1721, had forty arpents in depth, it is clear that he sold to Mr. Dauberville nineteen arpents in depth, and consequently Lebreton sold the same quantity on the side opposite to the Bayou Road, according to the dotted line of the plan; and as the courses of the boundary line were changed, as appears by the boundary lines A, B, C, and E, F, G, H, J, the aforesaid Suarez could not have purchased a greater depth than to the termination of the red lines K, M, the boundary on the south of the land sold by Mr. Lebreton to Dauberville, the remainder of the yellow lot K, L, M, D, being the land abandoned and belonging to the Crown, which is prayed for by Suarez, and contains 11½ superficial

arpents; bounded on the N. E. by the depth of the land of the party interested, on the S. W. by the road which serves on the bank of the Canal Carondelet, as a communication between this City of New Orleans and the Bayou St. John; and on the other sides by lands abandoned and never established, and considered as crown lands; and that the same may appear in proof, I sign the present with the figurative plan thereunto annexed, February 26th, 1800.

CARLOS TRUDEAU,
Royal Surveyor.

Note.—On the plan, three norths are marked, to wit: the true north, the north shown by compass, in the year 1735, when the boundaries of the lands in this precinct were established, and the north of the present compass. So that the explanations of the boundaries should be understood as the north of the present compass, without attending to the variation, &c.

CARLOS TRUDEAU.

Patent.

Don Ramon de Lopez y Angulo, Knight Pensioner of the Royal and distinguished Spanish Order of Charles the 3d, Secretary of the King, Minister of the decrees of the Council of his Majesty, Intendent of the Royal Treasury of the Provinces of Louisiana and West Florida, Superintendent-General, Subdelegated Judge in cases of averages, and other mercantile affairs, of lands and lots, crown lands, &c.

Whereas, Joseph Suarez, a denizen, residing in the Road of the Bayou St. John, having presented himself to this tribunal, praying that there should be granted to him the abandoned lands, which, for more than thirty years, has remained uncultivated, the same which with the front of two arpents being that of his plantation, continues on from the termination of his depth in a straight line to the road on the margin of the Canal Carondelet, serving as a transit from this city to the Bayou St. John.

I decreed that the Surveyor, Don Carlos Trudeau, should report in conformity to the petition presented by the aforesaid Suarez, in one of the clauses of his petition: that this performed, the result favorable to the petitioner, I divided it, transmitted it to the Fiscal of the Royal Treasury, who was ordered to investigate the same, and upon his report in answer, I decided that the surveys should be made, that these completed by the aforesaid surveyor, and certified in a continuat on of the proceedings (expediente) with a statement of the operation and exhibition of the figurative plan, showing the same, give proof that there are eleven and a half superficial arpents of crown lands, with the front of two arpents at the line where the depth of his aforesaid plantation terminates to the before-mentioned road

along the Canal Carondelet, the lines and points distinguished in the plan by the letters K, L, M, D, bounded by the aforesaid lot, vacant land, sale and grant made to Lebreton, as indicated in the plan itself, and report of the Surveyor to which I refer. I directed, by a decree of the 17th of the current month, that the proper title thereto should be *should be* furnished to the aforesaid Jacob Suarez, wherefore, conforming to the instructions made out and published by this Intendency upon the subject, in use of the powers granted me for these favors, in the name of the King, our lord (God preserve him), I grant as a favor, and without any compensation to the beforenamed Josef Suarez, the eleven and a half arpents of crown lands (superficial measure), in virtue of which is authorized to be carried into effect as already mentioned, with the points, boundaries, and lines heretofore stated, as proved by the plan annexed to this title for explanation and evidence, with the woods and products they may contain; declaring him as I do declare, to have entire and direct ownership of the aforesaid eleven and a half arpents, which as his own he may use, sell, or alienate at his pleasure, giving him power to take the possession or to claim the same from this tribunal should any attempt to interrupt him therein, in which possession I now place him, and protect him, without prejudice to third parties who may have a better right thereto, with the stipulation, engagement and condition that the aforesaid Josef Suarez, to whom is made this grant, concession, and favor, subject himself and his successors to comply with and conform to the instructions which to him apply conformably thereto, and to local circumstances, under the penalties imposed, and of which no ignorance will be permitted to be pleaded.

In virtue whereof, I ordered the present to be executed, signed with my hand, sealed with the seal of my arms, and countersigned by the present Notary to the Royal Treasury, who, as well as the officer of the Principal Auditor, will make the insertion directed in the instruction.

Given, in New Orleans, on the 26th day of March, 1800.

RAMON LOPEZ DE ANGULO.

By order of his Excellency, the Intendent.

CARLOS XIMENEZ.

I certify that the foregoing title is recorded in the Book used therefor, on folio 4 and following folios.

CARLOS XIMENEZ.

New Orleans, 19th April, 1800.

In the office of the Principal Auditor of the Army and Treasury of this Province, is recorded on folio 3 the following title.

GILBERTO LEONARD.

New Orleans (date as above).

Deed.

This day, 14th January, 1807, and the 31st of American Independence, before me, Pierre Pedesclaux, Notary Public for the United States of America, residing in New Orleans, personally appeared Mr. Jacques Phillipi Auguste Gabourch, a resident of this city, who, then by his own suggestion, spontaneous movement, and free will, has, by these presents, sold, ceded, transferred, and set over with guarantee from all troubles, debts, mortgages, and other impediments generally whatsoever, and which, as far as respects the mortgages only, I, Notary, Recorder of Mortgages, thereto certify to Mr. Francois Joseph Le Breton, residing in this city, here present, and accepting for himself, his heirs and assigns, a lot of ground, situated on the road of the Bayou St. John on the left hand going from the city, having two arpents front with the depth there be found, adjoining on one side to Mr. Daniel Clark and Watkins, and on the other to that of Mr. Dominique Fleitas (to line belonging by purchase from Mr. Joseph Suarez by act passed in my office on the 24th October of last year.) The said lot above sold, with all the buildings, appurtenances, and dependencies, issues, rights, usages, and servitudes, without anything reserving nor retaining, such as it was enjoyed by the vendor; which lot the said purchaser says, he knows, and is satisfied therewith. The present sale made and accepted between the parties in the clauses and conditions above, and moreover for the price and sum of two thousand five hundred dollars, which the seller declares he has received from the purchaser in a note for same amount which he owed to the said Mr. Le Breton, which note was delivered to him in presence of me, the undersigned notary. In virtue of all which, he desists from, and strips himself of all right of property to this said lot above sold, transferring the same to the said purchaser, who he has seized of and clothed therewith, that he may dispose thereof as of a thing to him belonging from this moment and forever, and may take possession whenever he may so think proper, for thus, &c.

Done and passed in my office the day and year above written, in presence of Messrs. Jean Bta. Ramerey and Joaquin Loyano, witnesses who have signed with me, notary, and the parties appearing.

The original is signed } F. J. Le Breton D'Orgenois, P. A. Gabourch, Jn. Bta. Ramerey, Joaquin Loyano, and

By me, the undersigned notary.

PIERRE PEDESCLAUX,
Not. Pub.

In order to show:

First. That the said Le Breton D'Orgenois had filed another claim in the Land Office, under the Acts of Congress of 1805, 1806,

and 1807, besides the claims given in evidence by the defendants' Number 381; and that the said claim No. 381 was not embraced in the said Acts of Congress, and that the confirmation made of the same by the Commissioners, was made without any power in them to make the same, and was null and void because against law. And

Second. That the said Le Breton D'Orgenois, in and by his said claim or application for confirmation No. 376, admitted, that the boundary line in the rear of the tracts held and possessed by him fronting on the Bayou Road, was the same with that represented by the letters E N F on the plat made by the said A. G. Blanchard to serve as a diagram, and marked B.

And that the defendants, the heirs of the said Le Breton D'Orgenois et als., objected to the introduction of the said evidence, on the ground that the said evidence is irrelevant, first, because the second section of the Act of March 3, 1807, under which claim No. 381 was confirmed, do not restrict the Commissioners to the confirmation of only one claim to the same person; second, because the said evidence does not prove the second point assumed by the plaintiffs in this Bill of Exception.

And that the Court decided the said objections, and rejected the said evidence, to which decision of the Court the plaintiffs excepted and tendered this their bill of exception, to be signed in open Court after the same had been submitted to the opposite parties, which is accordingly done.

J. A. CAMPBELL,
Presiding Judge.

And, after the evidence was closed, the plaintiffs asked the Court to decide as if instructing a jury upon the evidence as follows:

[See next and succeeding pages.]

Admissions of Counsel Filed.

HEIRS OF LAFAYETTE
v.
MAD. PONTALBA et als., and
HEIRS OF LE BRETON D'ORGENOIS.

U. S. Circuit Court, E. D. of Louisiana.

Admissions.

It is admitted that the plaintiffs are the heirs and legal representatives of General Lafayette—that General Lafayette resided in France, and that his heirs, the plaintiffs, have always resided there.

It is admitted that Lafayette and Hagan were in possession of the portion of land embraced in the patent to Lafayette, lying between the line represented on the plat accompanying the patent as it is claimed by the heirs of Griffon, and the front line of said plat,

in the year 1839, and that they afterwards sold the same to different individuals.

It is admitted that Sir Josiah Coghill was the heir of Sir John Coghill, and had succeeded to all of his rights.

It is admitted that the line E, F, on the plat made by A. G. Blanchard, marked "B," and filed as a diagram, to apply the evidence in the case, is the same with the line E, F, on the plat, making a part of the evidence filed with the claim of the Mayor, Aldermen, and Inhabitants of New Orleans, and embraced in document No. 14, of the plaintiffs' evidence; and that the line represented in the plat of survey made by O. Devezin, 13th April, 1765, laid down by Pilie, and represented by the letters E, P, and running east and west, is the same with the line E, F, on the two before-mentioned plats.

It is admitted that the distance from the Bayou Road at the point represented by the letter *a* on the said plan, made by A. G. Blanchard, to the Canal Carondelet, is fourteen arpents, and from the same point to that represented on the said plat by the letter *b*, is five arpents from the Bayou Road to the point represented on said plat by the letter N, the same distance; and from the point on the said plat represented by the figure 6, to where the line running from the said figure 6 intersects the line represented by the letters E, F, is nine arpents.

It is admitted that the plan made by A. G. Blanchard, marked B, and filed to serve as a diagram for the application of the evidence, and the illustration or explanation of the argument of counsel, is a copy of the plat filed with the claim of the Mayor, Aldermen, and Inhabitants of New Orleans, No. 14 of plaintiffs' evidence; and that the lines of the patent of Lafayette, as claimed by the plaintiffs, and the claims conflicting with it, are correctly laid down on it.

The compromises between Moore & Nicolet and the heirs of Griffon and Madame Pontalba, set forth in the answer of the heirs of Griffon, of Mad. Pontalba, and of Moore Nicolet, are admitted to have been made.

It is admitted that the lands claimed by the heirs of Charles Griffon, and of Madame Pontalba (Castillon), are laid down on the plat of survey on the back of General Lafayette's patent, as now claimed by them; and that the lines and boundaries of the lands claimed by legal representatives of MaCarty, are laid down on the plat made by and represented by the lines marked as surveyed by Pintado in the year 1796, and as claimed by J. B. MaCarty, under his application filed in the office of the Register of the Land Office in New Orleans, on the 24th of November, 1806, and under the application filed on the day of and that the lines and boundaries of the land claimed by the heirs of Le Breton, are represented in the plat made by A. G. Blanchard, marked B, by figures 5, 6, 9, 10, as claimed by their author in his application filed in said Land Office on the 12th June, 1808.

It is admitted that the line of the land claimed by the heirs of Charles Griffon, nearest to the city, touches the land formerly owned by Morand, Moreau, and Frémi, and sold by Frémi to the City of New Orleans; that the same line prolonged to Gravier's line, or Common Street, is identical with the line nearest to the city, *of the line nearest to the city*, of the land claimed by Jean Baptiste MaCarty, as granted to him on the 22d of December, 1795; that Pradelle's or Pradel's line and Gravier's line and the southern line of the claim of the plaintiffs and Common Street are identical.

It is admitted that the defendants Griffon are the heirs of Charles Griffon; that the defendant, Madam Pontalba, is the daughter and only heir of Andres Almonester y Roxas and Louise Delaronde his wife; that the said Louise Delaronde was married, after the death of her said first husband, to J. B. Castillon, by whom she had no children; that the defendants, Pierre Anais and Estelle Labarre, are the minor children of Marie Louise Estelle Le Breton D'Orgenois and of Joseph Volant Nelson Labarre; that the said Marie Louise Estelle Le Breton D'Orgenois and her deceased brother, Francois Le Breton D'Orgenois, were the only children and heirs of Francois Joseph Le Breton D'Orgenois.

It is admitted that the land claimed in the application or notice of claim filed in Land Office by Charles Griffon and J. B. Castillon, on the 31st December, 1806, under No. by Le Breton D'Orgenois, on the 12th June, 1808, fronted on the Bayou Road.

It is admitted that the said Charles Griffon, J. B. Castillon (Almonester or Pontalba) and Le Breton D'Orgenois occupied and improved, and cultivated and inhabited, respectively, portions of land fronting on the Bayou Road, under fences or enclosures, extending back from said road to the depth of 3½ or four arpents, and that the side fences of the portions occupied by them respectively ran from the Bayou Road back in the same direction with the said lines claimed by them, respectively, in their said applications to the Land Office, and that the said side fences were on the same lines claimed by them in said applications; and that the said portions of land fronting on the said Bayou were so occupied, cultivated, and inhabited by them and those under whom they held, and by those succeeding them for the last 80 or 90 years. The possession of the rear of the tracts claimed, is not admitted.

It is admitted that the rear of the said tracts claimed by the said Griffon, J. B. Castillon (Almonester or Pontalba), and Le Breton D'Orgenois, was a low cypress swamp.

Admitted that Samuel Moore and the late Theodore Nicolet purchased, in 1833, from the New Orleans Canal and Banking Co., L. Mellaudon, J. Kohn, and John Slidell (who had purchased from the heirs of J. B. MaCarty), all the title which said MaCarty had to the land claimed in the suit against Moore & Nicolet and Pontalba & Griffon.

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Admitted, also, that on these sales the vendors sold without warranting either title or extent of ground.

Admitted that Bartholemy MaCarty was the son of and legal representative of J. B. MaCarty.

Admitted that Common Street and Bienville Street have been shelled—the former in 1846 and 7, and the latter in 1850, and that the property claimed by the defendants was assessed in their names for that improvement, at so much a front foot.

Admitted that the defendants paid taxes on the property claimed by them, in 1847 and since.

It is admitted that all the documents filed by either party are true copies of the originals.

L. JANIN,
Attorney for Defendants.

MILES TAYLOR,
Attorney for Plaintiffs.

Agreement as to Translations, &c. Filed May 16, 1854.

Nos. 2111, 2116, and 2143.

HEIRS OF LAFAYETTE
v.
MAD. PONTALBA et als.,
HEIRS OF GRIFFON et als., and
HEIRS OF LE BRETON D'ORGENOIS et als.
} U. S. Circuit Court, E. D. of Louisiana.

It is agreed by the parties in these cases, that all the Notarial acts, instruments in writing, plans, documents, or other papers, which were given in evidence on the trial of the same by the parties, or which were offered in evidence, and being rejected, were embodied in the bills of exception taken by the parties, and which are in the French and Spanish languages, shall be translated by a competent translator into the English language, and that the translations so made shall be filed, and copied by the clerk into the transcript of the record to be carried up to the Supreme Court of the United States, on any writ of error which may be taken in the same; that the said Notarial acts, instruments in writing, plans, documents, or other papers, shall not be copied in the original French and Spanish, and that the transcript so made up shall be held and considered as legal and valid as though the said translations had been made use of on the trial in place of the originals.

L. JANIN,
Attorney for Defendants.

MILES TAYLOR,
Attorney for Plaintiffs.

Decisions asked as if instructing a jury—which overruled by the Court.

HEIRS OF LAFAYETTE
v.
MAD. PONTALBA et als.,
HEIRS OF GRIFFON et als., and
HEIRS OF LE BRETON D'ORGENOIS et als.
} U. S. Circuit Court, E. D. of Louisiana.

Decisions asked by the Plaintiffs, as if the Court were instructing a jury—if the facts had been submitted to a jury: that

1st. The Acts of Congress, approved March 3, 1803, March 27th, 1804, March 2, 1805, and April 20, 1806, granted 11,520 acres of land to Major-General Lafayette, and gave him the right to locate and survey the same on any lands, the property of the United States, in the Territory of Orleans, at his option.

2d. The right to locate 506·66 acres was exercised by the said Lafayette, on the 26th day of November, 1807, by locating the same in the office of the Register of the Land Office, at New Orleans, "on the vacant land situated beyond the line of the six hundred yards, lately abandoned by Congress to the corporation of said city, round the fortifications of the same," which said location embraced all the land enclosed within the lines on the plan or plat of survey, filed in the Land Office at New Orleans, with the notice of the claim made on the 20th of October, 1806, No. 175, under the Acts of Congress, by the Mayor, Aldermen, and Inhabitants of the City of New Orleans, represented by the letters A, *b*, N, Q, O, F, I, T, M and H, and lying back of a line drawn between the side lines of said claim, at a distance of 600 yards from and in the rear of the former fortifications of the said city, and appropriated the same to satisfy the said location of Lafayette, and gave him an absolute and indefeasible right to complete his title thereto, by surveying the same and obtaining a patent therefor; if the land embraced in the said lines was the property of the United States, on the said 26th day of November, 1807.

3d. The provisions contained in the 3d section of the Act of Congress, approved March 3d, 1807, were a legislative declaration that the land embraced in the claim made by the Mayor, Aldermen, and Inhabitants of New Orleans, No. 175, in the Land Office at New Orleans, on the 20th of October, 1806, was the property of the United States, and had the effect to reserve and withhold the said land, embraced in said claim, so far as it was not granted to the City of New Orleans, by the said section of said Act, from being appropriated or confirmed to claimants, under the said Act of Congress, approved March 3, 1807, or any other Act of Congress other than claimants *claimants* claiming under French or Spanish grants.

4th. The filing of notices of claims by Charles Griffon and J. B. Castillon, under the Acts of Congress of March 3, 1805, April, 1806, and March 3, 1807, in which they claimed tracts of land in the Territory of Orleans, on the ground that they had on the 20th of December, 1803, and for 10 consecutive years prior to that day, possessed the same—did not appropriate the land to satisfy their said claims, and withdraw it from being disposed of by the United States, in favor of third persons.

5th. The said Acts of Congress gave no right of any kind to persons claiming lands under them, in virtue of ten years' consecutive possession, prior to the 20th of December, 1803, and no right was intended to be given by said Acts, to claimants, until the claims which were filed were actually confirmed agreeably to the provisions of the said Acts. Until such confirmations were made, the United States retained the absolute right and full power into and over the said land, with unlimited authority to dispose of or appropriate the same at their pleasure; and the location made by Gen. Lafayette, on the 26th of November, 1807, prior to any confirmation to them, vested an absolute and indefeasible right to the land covered by said location, in said Lafayette, which could not be defeated by any subsequent confirmation in their favor.

6th. It was not the intention of Congress to authorize the confirmation of any person in a claim to land, founded alone on occupancy and possession for 10 consecutive years prior to the 20th of December, 1803, when the same person claimed any other tract of land, by virtue of any French or Spanish grant, and inasmuch as the application or notice of claim, filed by J. B. Castillon, for Mad. Castillon, his wife, in the Land Office at New Orleans, and given in evidence by Mad. Pontalba, her heir and legal representative, discloses the fact, that while Mad. Castillon claimed the tract claimed by plaintiffs, from her and others in this suit, that she, at the same time, claimed another tract of land, by virtue of a French grant; therefore, the said tract of land, claimed by plaintiffs in the suit against Mad. Pontalba, was not rightfully claimed in said application or notice of claim, and could not be lawfully confirmed to the claimant.

7th. F. J. Le Breton D'Orgenois did not file any claim in the Land Office at New Orleans, under the Acts of Congress, until the 20th day of June, 1808, after the location made by Gen. Lafayette, on the 26th day of November, 1807, and any confirmation of his claim by the Commissioners could not defeat the rights acquired by the said Lafayette, by his said location.

8th. The Commissioners, acting under the authority of the said Acts of Congress, were empowered to confirm claimants in their claims to lands only when they had been in possession of the land claimed by them on the 20th of December, 1803, and for the 10 consecutive years prior thereto, and when the land so claimed and possessed by them was not claimed by any other person; and if the

said Commissioners confirmed any claimant to land not possessed by him on the 20th December, 1803, &c., and which was claimed by any other person or persons, they exceeded their power, and such confirmation or confirmations were absolutely void for want of power in said Commissioners to make the same.

9th. The land claimed by the said Charles Griffon, J. B. Castillon, and F. J. Le Breton D'Orgenois, so far as their claims conflict with the location, survey, and patent of the said Lafayette, was public land, the use of which was enjoyed by the inhabitants of the City of New Orleans, as commons, before and after the cession of the Territory to the United States, and until the passage of the Act of Congress, approved March 3, 1807, as stated in the third instruction asked, and was not susceptible of possession by individuals, and was not "possessed" by the said claimants in the sense in which the word possessed is used.

In the Acts of Congress, under which the said claims were made, or in any other, at the time of the passage of the said Acts, or at any time previous thereto; and it was claimed previous to the filing of the claims of the said Charles Griffon, J. B. Castillon, and F. J. Lebreton D'Orgenois, by notices of claims duly filed in the Land Office at New Orleans, by the Mayor, Aldermen, and Inhabitants of New Orleans, and by J. B. Macarty, and the confirmations pretended to be made by the said Commissioners of the claims of the said Charles Griffon, J. B. Castillon, and F. J. Le Breton D'Orgenois, were absolutely void, because made by persons without any power to confirm claims in such cases, and this question is not in any manner affected by the fact that the said claim of J. B. Macarty, was rejected by the said Commissioners, or that the defendants now claim under the said J. B. Macarty, as well as the other claims with which the claim of the said J. B. Macarty conflicted.

10th. The location of Lafayette was made on the 26th day of November, 1807, before the pretended confirmations of the claims of the said Griffon, Castillon, and Le Breton D'Orgenois were made, and the said confirmations cannot affect the rights acquired under said location.

11th. The Act of Congress, approved 1811, recognized the location made by the said General Lafayette, as a subsisting claim, and specially reserved and withdrew the land embraced in it from being disposed of by any action on the part of the officers of the Government, and the claim of the said J. B. Macarty was, upon the application made, and the additional proof filed by B. Macarty, the heir and legal successor of the said J. B. Macarty, under the provisions of the Act of Congress, approved 1820, so far as the same conflicted with said location erroneously, and by mistake, and against law, reported on and recommended for confirmation, under the said Act, 1820, and the rights of said Lafayette in and to the land embraced in said location was not affected

or diminished by the provisions of the said Act of Congress, approved 1823.

12th. If the confirmations made by the Commissioners under the said Acts of Congress of 1805, 1806, and 1807, and the provisions of the said Act of Congress of 1823, gain any rights to the said Griffon, Castillon, Le Breton D'Orgenois, and MaCarty, the rights so given were mere equitable rights. And no legal rights to the land embraced in the respective claims of the said claimants, could vest in them, which could be opposed to the patent granted to Major-General Lafayette, unless patent certificates and patents were issued to the said claimants, according to law; and in the absence of such patent certificates and patents, the legal title to the said land embraced in the said patent of said General Lafayette, is in the plaintiffs, and they are entitled to be adjudged to be the legal owners of the same, and to recover it against the defendants at law.

13th. The patent from the United States to General Lafayette, granted on the 4th day of July, 1825, vested the legal seisin and constructive possession of all the land embraced in it in General Lafayette, which was on that day unimproved, and was not in the actual possession of any other person. And the said General Lafayette or his heirs, could only be divested of the possession so given, by an actual entry upon the land by a third person, with the intent to acquire possession as owner.

14th. The pretended confirmations under which the defendants claim having been made against law, and without any power in the Commissioners to make the same, and being absolutely void, cannot serve as the basis of the prescription of ten and twenty years; nor can they serve as a basis for the application of the principle, that possession of a part with title to the whole, is possession of the whole, and in consequence the possession had by the defendants respectively, of portions of land fronting on the Bayou Road, by actually occupying and cultivating the same with enclosures, and which said portions began on the Bayou Road, and extended back three and a half or four arpents from said Road, did not extend back of and beyond said enclosure by the operation of said confirmation.

15th. Prescription could not begin to run in favor of defendants for any of the land embraced in the patent granted to General Lafayette, unless thus actually entered upon and took real corporeal possession of the same, and if such possession of any part of said land be shown, then prescription could only run in their favor for the portion or portions actually possessed by enclosures and prescription; for the same would only be complete after the lapse of thirty years from such actual entry, and the beginning of such real corporeal possession.

16th. Digging canals or ditches and felling trees, or the occasional cutting of wood, does not constitute such possession, as can be the basis of the prescription of ten, twenty, or thirty years.

17th. The effect of the patent granted to Lafayette cannot be destroyed or restrained by the views or belief of the said grantee, as to the quantity or extent of the land embraced in it, and any expression made use of by Lafayette, showing his belief that the patent conveyed to him a smaller quantity or extent of land less than 503·88 acres, whether the same were made use of by him in acts or instruments in writing, or in letters, were used by him without any intention of renouncing any right which he might have acquired by his location, survey, and the said patent, and were the result of error as to the facts and law, and cannot in any manner affect, diminish, or restrain the operation of the said patent in his favor, or limit his right to the land described in said patent.

18th. Upon the whole evidence the plaintiffs are entitled to recover the land claimed from the defendants.

These motions were overruled by the Court, and the Court proceeded to render a judgment for the defendants, upon the grounds stated in the written opinion on file, to all which the plaintiffs except, as well to the overruling of the motion as also to the opinion given in the cause, and asks the Court to sign and seal this Bill of Exceptions, which is done.

J. A. CAMPBELL,
Presiding Judge.

And the plaintiffs excepted to the decision of the Court, sustaining the said objections to each and all of the said several propositions. And the Court decided as follows:

And afterwards, to wit, on the 12th day of May, A. D., 1853, the following entry was made on the minutes:

2109. Heirs of Lafayette *v.* Joseph Kenton et als.
2111. Same *v.* Madame Pontalba et als.
2116. Same *v.* Heirs of D'Orgenois.
2143. Same *v.* Heirs of Griffon.

These causes, as continued from yesterday, were resumed and proceeded with until three o'clock P. M., when the argument on both sides having been concluded, they were submitted to the Court and taken under advisement.

And afterwards, to wit, on the 13th day of May, A. D., 1853, the following entry was made on the minutes:

2109. Heirs of Lafayette *v.* Joseph Kenton et als.
2111. Heirs of Lafayette *v.* Madame Pontalba et als.
2116. Heirs of Lafayette *v.* Heirs of D'Orgenois.
2143. Heirs of Lafayette *v.* Heirs of Griffon.

The Court this day delivered its opinion in these causes, and ordered that judgments be entered in conformity thereto.

[*Note.*—See the opinion of the Court on pages of this transcript.]

Opinion of Hon. J. A. Campbell, delivered 13th May, 1853.

HEIRS OF LAFAYETTE
v.
D'ORGENOIS.

The facts of this case do not vary from the case of Madame Pontalba and Griffon, in any particular material to its determination. The claims of these parties were not filed until after General Lafayette had notified his intention to locate his warrant in the place designated. The claim was filed within the time limited by Congress, and the parties obtained a confirmation before the survey and patent to General Lafayette. The Court is of the opinion that judgment should be given for the defendants.

Opinion in the case of Madame Pontalba et als., referred to above. Delivered by the Hon. J. A. Campbell, 13th May, 1853.

THE HEIRS OF LAFAYETTE
v.
MADAME PONTALBA.

The Heirs of General Lafayette claim a tract of land in this City under the following title:

Congress, the 3d March, 1803, authorized the Secretary of War to issue land warrants to General Lafayette for $11,520, which he might locate, survey, and have patented, for lands, described "in the Act for regulating the grants of land appropriated for military services," or he might use the warrants in payment for land in the district north of the Ohio, and above the mouth of the Kentucky rivers, at his option. The locations, had they been made, would have been in tracts of four thousand acres each, and in a district where the land before that time was vacant and unappropriated.

Congress, the 27th March, 1803, authorized General Lafayette to locate and survey the lands specified in the previous act, in the Territory of Orleans, upon any lands the property of the United States, and that the President should issue patents upon the presentment to the Secretary of the Treasury of the surveys. These acts contemplated surveys by the party. Congress, the 2d March, 1805, established land offices in the Territory of Orleans, and by an Act of that date, made some advances toward the adjustment of the private land claims in that territory. In the same act General Lafayette was authorized to make his locations with the Register of those offices, and to employ the surveyors of the United States to survey his locations. They were allowed to locate the warrants in tracts of

one thousand acres, but that no improved lands or lots, salt springs or lead mines should be included. The President was authorized to issue a patent upon the return of the survey, and a certificate from the Register, that the land is not rightfully claimed by any other person. In April, 1806, the privilege was extended of embracing 500 acres in the location. The statutes referred to will be found in 1st Statutes at Large, 490, and 2d Statutes at Large, 236, 306, 329, 394. In November, 1807, the agent of General Lafayette located the one-third part of one of the warrants upon lands near the City of New Orleans, "on the vacant land situate beyond the line of the six hundred yards lately abandoned by Congress to the corporation of said city, round the fortifications of the same." An order of survey issued from the Land Office in 1816, to perfect the location, which was completed in 1825, when a certificate was given that the lands were vacant, except where claims had been made and allowed, as was shown by the map of the surveys. On this map the vacant land and the claimed land is distinctly shown, and the patent issues with that map attached, conceding to General Lafayette the land embraced in it not legally claimed.

The cases of Madame Pontalba and Griffon are of the same character. These claims are derived from a series of conveyances extending back to the period of the French dominion in Louisiana. They were submitted to the proper authorities in 1806, in accordance with the twenty-first section of the Act of 2d March, 1805, 2d Statutes at Large, 324. The land is described with precision in the claim, and a survey accompanies and forms a part of the evidence submitted to the Land Office. It is admitted, that this survey is in accordance with the titles of the parties, at least since 1765.

Congress, by the Act of the 3d March, 1807, declared, that any person, &c., &c., who, on the 20th December, 1803, had for ten consecutive years prior to that day, been in possession of a tract of land not claimed by any other person, and not exceeding two thousand acres, or who were on that day resident in Louisiana, and had still possession of the tract of land, should be confirmed in their titles to said tract of land, provided that no more shall be granted than is actually claimed by the party, nor more than is within the rightful and ascertained boundaries of the tract.

By the same Act, Congress empowered the Commissioners, appointed for the purpose of ascertaining the rights of persons claiming lands in the Territory of Orleans, to decide upon all claims to lands within their respective districts, when the claim is made by a person, or his representative, who, on the 20th day of December, 1803, was an inhabitant of Louisiana, for a tract of land not exceeding in quantity a league square, and which did not include a salt spring and lead mine.

This decision, when in favor of the claimant, was to be final against the United States, any act to the contrary notwithstanding.

Second Statutes at Large, page 440.

The effect of this statute was to recognize as private property all the land comprehended within its purview, and to exclude it from the operation of warrants like those issued to General Lafayette. It is a present, subsisting, and operative grant to all those who were able, by proof, to bring themselves within its provisions. The tribunal before which the proof could be made, and a final decision obtained, was provided in the act itself. It barred the Government for making any other disposition of it.

Final Judgment, as recorded in the Minutes, 14th May, 1853.

HEIRS OF LAFAYETTE
v.
MADAME PONTALBA et als.

This cause came on to be heard at this term of the Court, and was argued by counsel. On consideration whereof, it is ordered, adjudged, and decreed, that there be judgment in favor of the defendants, and that plaintiffs' petition be dismissed with costs.

And on this day the plaintiffs asked a new trial in these causes, on the ground, that the judgment rendered therein is contrary to law and the evidence; and the Court overruled the motion for a new trial, to which plaintiffs except.

And the plaintiffs now ask that this their Bill of Exceptions may be signed, sealed, and enrolled, which is accordingly done.

J. A. CAMPBELL,
Presiding Judge.

And afterwards, to wit, on the 25th day of May, 1853, the following entry was made on the Minutes:

2109. Heirs of Lafayette *v.* Joseph Kenton et als.
2111. Heirs of Lafayette *v.* Madame Pontalba et als.
2116. Heirs of Lafayette *v.* Heirs of Griffon.
2143. Heirs of Lafayette *v.* Heirs of D'Orgenois.

The plaintiffs this day came into Court by their Attorney, Miles Taylor, and moved for a new trial in these several causes, on the ground that the judgments rendered therein is contrary to the law and the evidence.

And afterwards, to wit, on the 2d day of June, A. D. 1853, the following entry was made on the Minutes:

2109. Heirs of Lafayette *v.* Joseph Kenton et als.
2111. Heirs of Lafayette *v.* Madame Pontalba et als.

2116. Heirs of Lafayette *v.* Heirs of D'Orgenois.
2143. Heirs of Lafayette *v.* Heirs of Griffon.

The applications herein made for new trials were submitted this day without argument, and taken under advisement.

And on the 3d day of June, A. D. 1853, judgment on the motion for a new trial was rendered, and entered of record on the Minutes as follows:

2109. Heirs of Lafayette *v.* Joseph Kenton et als.
2111. Heirs of Lafayette *v.* Madame Pontalba et als.
2116. Heirs of Lafayette *v.* Heirs of D'Orgenois.
2143. Heirs of Lafayette *v.* Heirs of Griffon.

The applications herein made for new trials having been submitted to the Court, and the Court, having considered the same, doth now order that said applications be overruled, and new trials refused.

Final Judgment, as rendered on 14th May, and recorded on the Judgment Docket, and signed on the 3d June, 1853.

Circuit Court of the United States; Fifth Circuit and Eastern District of Louisiana. April Term, A. D., 1853.

New Orleans, Saturday, 14th May, 1853.

Court met pursuant to adjournment:
Present, Hon. J. A. Campbell, Presiding Judge.
Present, Hon. Theo. H. McCaleb, District Judge.

HEIRS OF LAFAYETTE
v.
MADAME PONTALBA et als. } No. 2111.

This cause came on to be heard at this Term of the Court, and was argued by counsel; on consideration whereof, it is ordered, adjudged, and decreed, that there be judgment in favor of the defendants, and that plaintiffs' petition be dismissed with costs. Judgment rendered 14th May, 1853.

(Signed 3d June, 1853.) J. A. CAMPBELL.

Agreement as to Translations, &c. Filed 16th May, 1854

Nos. 2111, 2116, and 2143.

HEIRS OF LAFAYETTE
v.
MAD. PONTALBA et als.,
HEIRS OF GRIFFON et als., and
HEIRS OF LE BRETON D'ORGENOIS et als. } United States Circuit Court, Eastern District of Louisiana.

It is agreed by the parties in these cases, that all the notarial

acts, instruments in writing, plans, documents, or other papers, which were given in evidence on the trial of the same by the parties, or which were offered in evidence, and being rejected were embodied in the Bills of Exception taken by the parties, and which are in the French or Spanish languages, shall be translated by a competent translator into the English language, and that the translations so made shall be filed and copied by the clerk into the transcript of the Record, to be carried up to the Supreme Court of the United States on any Writ of Error which may be taken in the same, that the said notarial acts, instruments in writing, plans, documents, or other papers, shall not be copied in the original French and Spanish, and that the transcript so made up shall be held and considered as legal and valid as though the said translations had been made use of on the trial in place of their originals.

LS. JANIN,
Attorney for Defendants.
MILES TAYLOR,
Attorney for Plaintiffs.

Petition for Writ of Error. *Filed 24th June*, 1854.

HEIRS OF LAFAYETTE
v.
MAD. PONTALBA et als.,
HEIRS OF C. GRIFFON et als., and
HEIRS OF F. J. LE BRETON D'ORGENOIS et als.

United States Circuit Court, Eastern District of Louisiana.

To the Honorable the Circuit Court of the United States, for the Eastern District of Louisiana:

The petition of Charlotte Mathilde Dumottier de Lafayette, wife of Maurice Bureau de Pusey, and of the said Maurice Bureaux de Pusey, who joins and assists his wife herein; of Nathalie Réné Emilie Dumottier de Lafayette, wife of Adolphe Joseph Scipion Perier, and of the said Adolphe *Adolphe* Joseph Scipion Perier, who joins and assists his said wife herein; of Oscar Thomas Gilbert Dumottier de Lafayette, of Edmond Dumottier de Lafayette, of Clementine Adrienne Dumottier de Lafayette, wife of August de la Bouninier de Beaumont, and of the said August de la Bouninier, who joins and assists his said wife herein; of Marie Pauline de Lasteyrie du Saillant, wife Charles Francois Marie de Remusat, and of the said Charles Francois Marie du Remusat, who joins and assists his said wife herein; of Francois Melanie de Lasteyrie du Saillant, wife of Claude Francois Philibert Tireny de Corcelle, and of the said Claude Francois Philibert Tireny de Corcelle, who joins and assists his said wife herein; and of Adrienne Jules de Lasteyrie du Saillant, all citizens of the Empire of France; and of Anastasie Pauline Louise Dumottier de Lafayette, widow of Juste Charles Cesar Foy de

la Tour Maubourg, a citizen of the Kingdom of Sardinia, residing in Turin: the heirs and legal representatives of the late Major-General Lafayette, deceased, respectfully represents: That in the above entitled cases, Nos. 2111, 2116, and 2143 (which were consolidated and tried together), wherein your petitioners were plaintiffs, and wherein Michaela Leonarda Almonester, the wife separated from bed and board of Joseph Xavier Delfant de Pontalba, represented by Eugene Rochereau & Co., her duly appointed attorneys in fact, Samuel Moore, and Marie Francoise Malvina Lovell, his wife, separated in property from the said Samuel Moore, her said husband; Theodore Bailley Blanchard, testamentary executor of Theodore Nicolet, deceased; Evareste Blanc, Francois Volant Labarre, tutor of the minors Pierre Volant Labarre, Anais Labarre, and Estelle Labarre, the legitimate and minor children of the late Marie Louise Estelle Le Breton D'Orgenois, and of the late Joseph Nelson Volant Labarre, her husband; Edward C. Carter, Ellen McDermott, Bernard de Santos, John D. Kemper, Mademoiselle Fillette Bonseigneur, J. B. Levaudais, John Kemp, Octave Morel, Charles Harrispe, Michael Gernon, Francois Chauvin, P. M. Faisans Passebonne, Nathaniel E. Bailey, James O'Conner, F. M. Jacob, Pierre Ulysse Guirengue, Therese Jacob, Jacques Demoruelle, Joseph Kenton, Pierre Paul Deverges, Widow Josephine Monrose, Henry Black, Charles Lawson, John Lanche, Jean Marie Porrel, Thomas O'Hearn, John Burgess, Mrs. Peggy Coxe, George Bouner, G. Gottschalk, W. D. Smith, Mrs. Priscilla Smith, Thomas Suranne Griffon, Marie Francois Odile Griffon, wife of Auguste Bellonguet, and Auguste Bellonguet, her husband, Hypolete Griffon, Elbana Griffon, wife of Michall Maher, and Michael Maher, her husband, and Clemence Griffon, a minor, represented by her mother, Joseph Chazal, widow of Jean Marie Chazal, her natural tutrix, duly appointed and confirmed; Samuel Moore, and Marie Malvina Lovell, his wife, separated in property from her husband, and Theodore Bailey Blanchard, testamentary executrix of Theodore Nicolet, deceased, are defendants; final judgments were rendered against petitioners by this honorable Court, on the 14th day of May, 1853, and signed on the third day of June, 1853, that they are informed and believe that they have a right to have the said judgments revised and examined by the Supreme Court of the United States, on a Writ of Error, and that they are now desirous of obtaining a Writ of Error from the said judgments and proceeding in the same as though the said three cases formed one case, agreeably to the stipulations of the agreement in relation thereto on file.

Wherefore, your petitioners pray, that a Writ of Error be allowed them in the three said cases, returnable to the next term of the Supreme Court, on their furnishing bonds conditioned according to law, with security in such sum as may be fixed by the Court.

MILES TAYLOR and GEO. EUSTIS, JR.,
Attorneys for Plaintiffs.

Order.

Let the Writ of Error be allowed as prayed for, on plaintiffs giving bond, conditioned according to law, in the penal sum of five hundred dollars.

J. A. CAMPBELL,
Asso. Justice of the Supreme Court of the United States.

Bond for Writ of Error. Filed 24th June, 1854.

Know all men by these presents, that we, Charlotte Matilde Dumottier de Lafayette, wife of Maurice Bureau de Pusey, and the said de Pusey, who joins and assists his said wife herein; Nathalie Réné Emilie Dumottier de Lafayette, wife of Adolphe Joseph Scipion Perier, and the said Perier, who joins and assists his said wife herein; Oscar Thomas Gilbert Dumottier de Lafayette, Edmond Dumottier de Lafayette, Clementine Adrienne Dumottier de Lafayette, wife of Auguste de la Bouninier de Beaumont, and the said de Beaumont, who assists his said wife herein; Marie Pauline de Lasteyrie du Saillant, wife of Charles Francois Marie de Remusat, and the said de Remusat, who joins and assists his said wife herein; Francois Melanie de Lasteyrie du Saillant, wife of Charles Francois Philibert Tireny de Corcelle, and the said de Corcelle, who joins and assists his said wife herein; and Adrienne Jules de Lasteyrie du Saillant, all citizens of the Empire of France, residing at Paris; and Anastasia Pauline Louise Dumottier de Lafayette, widow of Juste Charles Cesar Foy de la Tour Maubourg, a citizen of the Kingdom of Sardinia, residing in Turin, the heirs and legal representatives of the late Major-General Lafayette, deceased, as principals, and William H. Hagan, residing in the city of New Orleans, as security, are held and firmly bound unto Michaela Leonardo Almonester, the wife separated from bed and board of Joseph Xavier Delfant de Pontalba, Samuel Moore, and Marie Francois Malvina Lovell, his wife, and Theodore Bailey Blanchard, testamentary executor of Theodore Nicolet, deceased, Francois Volant Labarre, tutor of the minors Pierre Volant Labarre, Anais Labarre, and Estelle, minor children of Marie Louise Estelle Le Breton D'Orgenois and of the late Joseph Nelson Volant Labarre, her husband, Edward C. Carter, Ellen McDermott, Bernard de Santos, John D. Kemper, Mdlle. Fillette Bonseigneur, J. B. Levaudais, *J. B. Levaudais*, John Kemp, Octave Morel, Francois Chauvin, P. M. Faisans, Pierre Passbonne, Charles Harrispe, Michael Gernon, Nathan E. Bailey, James O'Conner, F. M. Jacob, Pierre Ulysse Gueringue, Therese Jacob, Jacques Demoreulle, Joseph Kenton, Pierre Paul Deverges, Henry Black, Charles Lawson, John Lanche, Jean Marie Porrel, Thomas O'Hearn, John Burgess, Mrs. Peggy Coxe, George Bouner, G. Gottschalk, W. D. Smith, and Mrs. Priscilla Smith,

Thomas Suranne Griffon, Marie Francois Odile Griffon, wife of Auguste Bellonguet, Hypolite Griffon, Elbanie Griffon, wife of Michael Maher, Clemence Griffon, a minor, represented by her mother, and natural tutrix, Josephine Chazal, widow of Jean Marie Chazal, Samuel Moore and Marie Francois Malvina Lovell, his wife, separate in property from her said husband, and Theodore Bailey Blanchard, testamentary executor of Theodore Nicolet, deceased, in the sum of five hundred dollars, lawful money of the United States, well and truly to be paid by us, the said parties of the first part, the obligors to the said Michaela Almonester and others, parties of the second part, the obligees, for which payment well and truly to be paid, we bind ourselves and each of us, by him or herself, and our heirs, by these presents. Sealed with our seals, and dated on this 24th day of June, in the year eighteen hundred and fifty-four.

And whereas, the said Charlotte Matilde Dumottier de Lafayette, wife of Maurice Bureau de Pusey, and the other obligors, the heirs and legal representatives of the said Major-General Lafayette, have this day presented a petition to Honorable the Circuit Court of the United States in the Eastern District of Louisiana, praying for a writ of error in the case entitled Heirs of Lafayette *v.* Mad. Pontalba et als., "No. 2111, of the docket of said Court, and Heirs of Lafayette *v.* the Heirs of Le Breton D'Orgenois, No. 2116 of the docket of said Court, and Heirs of Lafayette *v.* Heirs of C. Griffon et als.," No. 2143 of the docket of said Court, which said three causes were tried together by agreement of counsel and permission of the Court, and are to be taken up to the Supreme Court of the United States on a writ of error, as though they formed one case, under said agreement, which said causes were decided against them at term of the Court.

Therefore, now the condition of the above obligation is such that if we, the above-bounden heirs and legal representatives of the said *of the said* Major-General Lafayette, shall prosecute the said writ of error, and well and truly pay to the said Michaela Leonardo Almonester, wife separated from bed and board of Joseph Xavier Delfant de Pontalba, and the other obligees, the defendants in the same three causes, all such damages as they may recover against us in case it should be decided that the said writ of error was wrongfully obtained, and the judgments heretofore rendered against us in said cases should be affirmed, then to be void, otherwise to remain in full force.

GEO. EUSTIS, JR.,
Attorney in fact of Heirs of Gen. Lafayette.

W. H. HAGAN,
Security.

United States of America—Circuit Court of the United States: Fifth Circuit and Eastern District of Louisiana.

Clerk's Office.

I, John W. Gurley, Clerk of the Circuit Court of the United States, for the Fifth Circuit and Eastern District of Louisiana, do hereby certify, that the foregoing 245 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had, on the trial of the cases of the Heirs of Lafayette *v.* Madame Pontalba et als., No. 2111, the Heirs of Lafayette *v.* Heirs and legal representatives of D'Orgenois et als., No. 2116, and the Heirs of Lafayette *v.* Heirs of Griffon et als., No. 2143 of the Docket, so far as the same now remain of record or on file in said Court.

Witness my hand and the seal of said Court, at the City of New Orleans, this 25th day of November, A.D. 1854.

[L. S.] J. W. GURLEY, Clerk.

I, Theodore H. McCaleb, United States Judge for the Eastern District of Louisiana, do hereby certify, that John W. Gurley, whose name is signed to the above certificate as Clerk of the Circuit Court of the United States for the Fifth Circuit and Eastern District of Louisiana, was, at the time of signing said certificate, and is now, the Clerk of said Court: that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such Clerk.

Given under my hand and seal, at the City of New Orleans, in said district, this 25th day of Nov. A.D. 1854.

[L. S.] THEO. H. McCALEB.

United States of America, ss.: The President of the United States, to the Honorable the Judges of the Circuit Court of the United States in and for the Fifth Circuit, and holding Sessions for the Eastern District of Louisiana. Greeting:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said Circuit Court, before you, or one of you, between Charlotte Mathilde Dumottier de Lafayette, wife of Maurice Poivre Bureaux de Pusey, Maurice Poivre Bureaux de Pusey, Nathaniel Rene, Emile Dumottier de Lafayette, wife of Adolphe Joseph Scipion Perier, Adolphe Joseph Scipion Perier, Oscar Thomas Gilbert Dumottier de Lafayette, Edmond Dumottier de Lafayette, Clementine Adrienne Dumottier de Lafayette, wife of Auguste de la Bouninier de Beaumont, Auguste de la Bouninier de Beaumont, Marie Pauline de Lasteyrie du Saillant, wife of Charles Francois Marie de Remusat, Charles Francois Marie de Remusat, Francois Melanie de Lasteyrie du Saillant, wife of Claude

Francois Philibert Tireny de Corcelle, Claude Francois Philibert Tireny de Corcelle, Adrienne Jules de Lasteyrie du Saillant, Anastasie Pauline Louise Dumottier de Lafayette, widow of Juste Charles Cesar Foy de la Tour Maubourg, heirs and legal representatives of the late Major-General Lafayette, and Edward C. Carter, Ellen McDermott, Jacques Demourouelle, Bernard de Santos, Henry Black, Charles Lawson, John Lanche, Jean Marie Porret, Thomas O'Hearn, Joachim Beaumont Livaudais, Pierre Ulysse Gueringue, Felix Marie Jacob, William O'Connor, Josephine Monrose, Francois Chauvin, Mlle. Fillette Bonseigneur, Octave Morel, Therese Jacob, John D. Kemper, Pierre Paul Deverges, Michael Gernon, John Kemp, Charles Harrispe, Pierre Passebonne, John Burgess, Mrs. Peggy Coxe, George Boner, Miss Priscilla Russell, Joseph Kenton, George Gottschalk, William Dennis Smith, Pierre Minor Faisans and Nathan E. Bailey, a manifest error hath happened, to the great damage of the said Charlotte Mathilde Dumottier de Lafayette and the others above named, heirs and legal representatives of the late Major-General Lafayette, as by their complaint appears.

We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the first Monday of December next, in the said Supreme Court, to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness, the Honorable Roger B. Taney, Chief Justice of the said Supreme Court of the United States, this twenty-fourth of June, in the year of our Lord one thousand eight hundred and fifty-four.

J. W. GURLEY,
Clerk of the United States Circuit Court for Eastern District of Louisiana.

(Endorsed on above.)

United States Circuit Court. No. 2116. Heirs of Lafayette *v.* Heirs and Legal Representatives of F. J. Le Breton D'Orgenois et als. Writ of error. Filed 24th June, 1854.

J. W. GURLEY,
Clk.

United States of America, ss.: The President of the United States, to the Honorable the Judges of the Circuit Court of the United

States in and for the Fifth Circuit, and holding Sessions for the Eastern District of Louisiana. Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said Circuit Court, before you, or one of you, between Charlotte Mathilde Dumottier de Lafayette, wife of Maurice Poivre Bureaux de Pusey, Maurice Poivre Bureaûx de Pusey, Nathaniel René Emilie Dumottier de Lafayette, wife of Adolphe Joseph Scipion Perier, Adolphe Joseph Scipion Perier, Oscar Thomas Gilbert Dumottier de Lafayette, Edmond Dumottier de Lafayette, Clementine Adrienne Dumottier de Lafayette, wife of Auguste de la Bouninier de Beaumont, Auguste de la Bouninier de Beaumont, Marie Pauline de Lasteyrie du Saillant, wife of Charles Francois Marie de Remusat, Charles Francois Marie de Remusat, Francois Melanie de Lasteyrie du Saillant, wife of Claude Francois Philibert Tireny de Corcelle, Claude Francois Philibert Tireny de Corcelle, Adrienne Jules de Lasteyrie du Saillant, and Anastasie Pauline Louise Dumottier de Lafayette, widow of Juste Charles Cesar Foy de la Tour Maubourg, and Michaela Leonarda Almonester, wife of Joseph Xavier Delfant de Pontalba, Samuel Moore and Marie Francois Malvina Lovell, his wife, Theodore Bailley Blanchard, testamentary executor of Theodore Nicolet, and Evareste Blanc, a manifest error hath happened, to the great damage of the said Charlotte Mathilde Dumottier de Lafayette and others above named, Heirs and Legal Representatives of the late Major-General Lafayette, as by their complaint appears.

We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the first Monday of December next, in the said Supreme Court, to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness, the Honorable Roger B. Taney, Chief Justice of the said Supreme Court of the United States, this twenty-fourth of June, in the year of our Lord one thousand eight hundred and fifty-four.

J. W. GURLEY,

Clerk of the United States Circuit Court for Eastern District of Louisiana.

(Endorsed on above.)

United States Circuit Court. No. 2111. Heirs of Lafayette *v.* Madame Pontalba et als. Writ of error. Filed 24th June, 1854.

J. W. GURLEY,
Clk.

United States of America, ss.: The President of the United States to the Honorable the Judges of the Circuit Court of the United States in and for the Fifth Circuit, and holding Sessions for the Eastern District of Louisiana. Greeting:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said Circuit Court, before you, or one of you, between Charlotte Mathilde Dumottier de Lafayette (wife of Maurice Poivre Bureaux de Pusey), Maurice Poivre Bureaux de Pusey, Nathaniel René Emilie Dumottier de Lafayette (wife of Adolphe Joseph Scipion Perier), Adolphe Joseph Scipion Perier, Qscar Thomas Gilbert Dumottier de Lafayette, Edmond Dumottier de Lafayette, Clementine Adrienne Dumottier de Lafayette (wife of Auguste de la Bouninier de Beaumont), Auguste de la Bouninier de Beaumont, Marie Pauline de Lasteyrie du Saillant (wife of Charles Francois Marie de Remusat), Charles Francois Marie de Remusat, Francois Melanie de Lasteyrie du Saillant (wife of Claude Francois Philibert Tireny de Corcelle), Claude Francois Philibert Tireny de Corcelle, Adrienne Jules de Lasteyrie du Saillant, and Anastasie Pauline Louise Dumottier de Lafayette (widow of Juste Charles Cesar Foy de la Tour Maubourg), heirs and legal representatives of the late Major-General Lafayette, and Thomas Suzanne Griffon, Marie Francois Odile Griffon, wife of Auguste Bellonguet, Auguste Bellonguet, Hyppolite Griffon, Elbanie Griffon (wife of Michel Maher), Michel Maher, Clementine Griffon, a minor, represented by her natural tutrix Josephine Charal, widow of Jean Maria Griffon, Samuel Moore, and his wife Maria Francoise Malvina Lovell, Theodore Bailley Blanchard, testamentary executor of Theodore Nicolet, and Evariste Blanc, a manifest error hath happened, to the great damage of the said Charlotte Mathilde Dumottier de Lafayette, and others above named, heirs and legal representatives of the late Major-General Lafayette, as by their complaint appears:

We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the first Monday of December next, in the said Supreme Court, to be then and there held;

that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness, the Honorable Roger B. Taney, Chief Justice of the said Supreme Court of the United States, this twenty-fourth of June, in the year of our Lord one thousand eight hundred and fifty-four.

(Signed) J. W. GURLEY,
Clerk of the United States Circuit Court for Eastern District of Louisiana.

(Endorsed on above.)

United States Circuit Court. No. 2143. Heirs of Lafayette *v.* Heirs of Griffon et als. Writ of Error. Filed 24th June, 1854. J. W. Gurley, Clerk.

The United States of America: The President of the United States to Octave Morel, Francois Volant Labarre (Tutor of Pierre Volant Labarre, Anais Labarre, and Estell Labarre), Heirs of Louisa Estelle Le Breton D'Orgenois, and Heirs, &c., of Francois J. Le Breton D'Orgenois, Edward C. Carter, Ellen McDermott, Jacques Demorouelle, Bernard de Santos, Henry Black, Charles Lawson, John Lanche, Jean Marie Porret, Thomas O'Hearne, Joachim Beaumont Livaudais, Pierre Ulysse Guerinque, Felix Marie Jacob, William O'Conner, Josephine Monrose, Francois Chauvin, Mlle. Fillette Bonseigneur, Therese Jacob, John D. Kemper, Pierre Paul Deverges, Michael Gernon, John Kemp, Charles Harrispe, Pierre Passbonne, John Burgess, Mrs. Peggy Coxe, George Bonner, Miss Priscilla Russell, J. Kenton, G. Gottschalk, W. D.Smith, P. P. Faisans, and N. E. Bailey. Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the City of Washington, on the first Monday of December next, pursuant to a writ of error filed in the Clerk's Office of the Circuit Court of the United States for the Fifth Circuit and Eastern District of Louisiana, wherein the "Heirs of Lafayette," to wit: Charlotte Mathilde Dumottier de Lafayette (wife of Maurice Poivre Bureaux de Pusey), Maurice Poivre Bureaux de Pusey, Nathaniel René Emilie Dumottier de Lafayette (wife of Adolphe Joseph Scipion Perier), Adophe Joseph Scipion Perier, Oscar Thomas Gilbert Dumottier de Lafayette, Edmond Dumottier de Lafayette, Clementine Adrienne Dumottier de Lafayette (wife of Auguste de la Bouninier de Beaumont), Auguste de la Bouninier de Beaumont, Marie Pauline de Lasteyrie du Saillant (wife of Charles Francois Marie de Remusat), Charles Francois Marie de Remusat, Francois Melanie de Lasteyrie du Saillant (wife of Claude Francois Philibert Tireny de Corcelle), Claude Francois Philibert Tireny de Corcelle, Adrienne

Jules de Lasteyrie du Saillant, Anastasie Pauline Louise Dumottier de Lafayette (widow of Juste Charles Cesar Foy de la Tour Maubourg), heirs and legal representatives of the late Major-General Lafayette, are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiffs in error as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, this third day of July, in the year of our Lord one thousand eight hundred and fifty-four.

J. A. CAMPBELL,
Asso. Justice of the Sup. Court of the U. S.

(Endorsed on above.)

United States Circuit Court. No. 2116. Heirs of Lafayette *v.* Heirs and Legal Representatives of F. J. Le Breton D'Orgenois et als. Citation in error.

Service acknowledged for C. R. Stumpf, defendant in error.

J. J. LUGENBUHL,
3d November, 1854. Attorney.

I hereby acknowledge legal service of the within contained writ of error for and in behalf of the defendants, the heirs and legal representatives of F. J. Le Breton D'Orgenois, therein named.

LOUIS JANIN,
New Orleans, Oct. 31, 1854. Of Counsel.

Service acknowledged for N. E. Bailey, Wm. O'Connor, F. M. Jacob, Pierre Ulysse Gueringer, Therese Jacob, Jacques Demorouelle, Joseph Kenton, and Pierre Paul Duvergier, defendants in error.

C. ROSELIUS,
Of Counsel.

Service accepted and acknowledged for O. Morel, defendant.

EU. TEILLEUL,
3d November, 1854. Attorney.

The United States of America: the President of the United States: to Henry Black, Charles Lawson, Francois Valcour Volant Labarre, tutor of Pierre Volant, Anais and Estelle La Barre, minor, Heirs of Louise Estelle Le Breton D'Orgenois, and of Francois J. Le Breton D'Orgenois, John Lanch, Jean Marie Porret, Thomas O'Hearn, Joachim Beaumont Levaudais, John D. Kemper, Francois Chauvin, Michael Gernon, John Kemp, Jacques

Demourouelle, Bernard de Santos, Pierre Ulysse Guerinque, Felix Marie Jacob, William O'Conner, Josephine Monrose, Mlle. Fillette Bonseigneur, Octave Morel, Therese Jacob, Pierre Paul Deverges, Charles Harrispe, Pierre Passbone, John Burgess, Mrs. Peggy Coxe, George Bonner, Miss Priscilla Russel, Joseph Kenton, George Gottschalk, William Dennis Smith, Pierre M. Faisans, Nathan E. Bailey, Edward C. Carter, and Ellen McDermott. Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the City of Washington on the first Monday of December next, pursuant to a writ of error filed in the Clerk's Office of the Circuit Court of the United States for the Fifth Circuit and Eastern District of Louisiana, wherein the "Heirs of Lafayette," to wit: Charlotte Mathilde Dumottier de Lafayette, wife of Maurice Poivre Bureaux de Pusey, Maurice Poivre Bureaux de Pusey, Nathaniel Rene Emilie Dumottier de Lafayette, wife of Adolphe Joseph Scipion Perier, Adolphe Joseph Scipion Perier, Oscar Thomas Gilbert Dumottier de Lafayette, Edmond Dumottier de Lafayette, Clementine Adrienne Dumottier de Lafayette, wife of Auguste de la Bouninier de Beaumont, Auguste de la Bouninier de Beaumont, Marie Pauline de Lasteyrie du Saillant, wife of Charles Francois Marie de Remusat, Charles Francois Marie de Remusat, Francois Melanie de Lasteyrie du Saillant, wife of Claude Francois Philibert Tireny de Corcelle, Claude Francois Philibert Tireny de Corcelle, Adrienne Jules de Lasteyrie du Saillant, Anastasie Pauline Louis Dumottier de Lafayette, widow of Juste Charles Cesar Foy de la Tour Maubourg, Heirs and Legal Representatives of the late Major-General Lafayette, are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the Judgment rendered against the said plaintiffs in error as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, this third day of July, in the year of our Lord one thousand eight hundred and fifty-four.

J. A. CAMPBELL,

Asso. Justice of the Supreme Court of the United States.

(Endorsed on above.)

United States Circuit Court. No. 2116. Heirs of Lafayette *v.* Heirs of F. J. Le Breton D'Orgenois et als. Citation in error.

Marshal's Return.

Received July 25th, 1854, and on the first day of November,

1854, served the within on the within-named Henry Black, by delivering to him, personally, a copy thereof, in the City of New Orleans.

J. M. KENNEDY,
U. S. M.

By EMILE MARY,
Dy. Marshal.

The United States of America: the President of the United States: to Edward C. Carter, Ellen McDermott, Francois Valcour Volant La Barre, Tutor of Pierre Volant, Anais and Estelle La Barre, minors, heirs of Louise Estelle Le Breton D'Orgenois, and of Francois J. Le Breton D'Orgenois, John Lanche, Jean Marie Porret, Thomas O'Hearn, Joachim Beaumont Livandais, John D. Kemper, Francois Chauvin, Michel Gernon, John Kemp, Jacques Demourouelle, Bernard De Santos, Henry Black, Charles Lawson, Pierre Ulysse Gueringue, Felix Marie Jacob, William O'Conner, Josephine Monrose, Mlle. Fillette Bonseigneur, Octave Morel, Therese Jacob, Pierre Paul Deverges, Charles Harrispe, Pierre Passbonne, John Burgess, Mrs. Peggy Coxe, George Bonner, Miss Priscilla Russel, Joseph Kenton, George Gottschalk, William Dennis Smith, Pierre M. Faisans, and N. E. Bailey. Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the City of Washington on the first Monday of December next, pursuant to a writ of error filed in the Clerk's Office of the Circuit Court of the United States for the Fifth Circuit and Eastern District of Louisiana, wherein the "Heirs of Lafayette," to wit: Charlotte Mathilde Dumottier de Lafayette, wife of Maurice Poivre Bureaux de Pusey, Maurice Poivre Bureaux de Pusey, Nathaniel Rene Emilie Dumottier de Lafayette, wife of Adolphe Joseph Scipion Perier, Adolphe Joseph Scipion Perier, Oscar Thomas Gilbert Dumottier de Lafayette, Edmond Dumottier de Lafayette, Clementine Adrienne Dumottier de Lafayette, wife of Auguste de la Bouninier de Beaumont, Auguste de la Bouninier de Beaumont, Marie Pauline de Lasteyrie du Saillant, wife of Charles Francois Marie de Remusat, Charles Francois Marie de Remusat, Francois Melanie de Lasteyrie du Saillant, wife of Claude Francois Philibert Tireny de Corcelle, Claude Francois Philibert Tireny de Corcelle, Adrienne Jules de Lasteyrie du Saillant, Anastasie Pauline Louise Dumottier de Lafayette, widow of Juste Charles Cesar Foy de la Tour Maubourg, Heirs and Legal Representatives of the late Major-General Lafayette, are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the Judgment rendered against the said plaintiffs in error as in said writ of error mentioned, shall not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, this third day of July, in the year of our Lord one thousand eight hundred and fifty-four.

J. A. CAMPBELL,
Asso. Justice of the Supreme Court of the United States.

(Endorsed on above.)

United States Circuit Court. No. 2116. Heirs of Lafayette *vs.* Heirs of F. J. Le Breton D'Orgenois et als. Citation in error.

Marshal's Return.

Received July 25th, 1854, and on the 25th day of October, 1854, served the within on the within-named Edward C. Carter, by delivering to him personally, a copy thereof at his domicil, in the City of New Orleans.

J. M. KENNEDY,
U. S. M.
By EMILE MARY,
Dy. Marshal.

The United States of America: the President of the United States, to G. Gottschalk, W. D. Smith, P. M. Faisans, Francois Valcour Volant La Barre, tutor of Pierre Volant, Anais, and Estelle La Barre, minor heirs of Louise Estelle Le Breton D'Orgenois and of Francois J. Le Breton D'Orgenois, George Bonner, Miss Priscilla Russell, Charles Harrispe, Pierre Passbonne, Henry Black, Charles Lawson, John Burgess, Mrs. Peggy Coxe, John Lanche, Jean Marie Porret, Thomas O'Hearn, Joachim Beaumont Livaudais, John D. Kemper, Francois Chauvin, Michael Gernon, John Kemp, Jacques Demourouelle, Bernard De Santos, Pierre Ulysse Gueringen, Felix Marie Jacob, William O'Conner, Josephine Monrose, Mlle. Fillette Bonseigneur, Octave Morel, Therese Jacob, Pierre Paul Deverges, Joseph Kenton, Nathan E. Bailey, and Ellen McDermott, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the City of Washington on the first Monday of December next, pursuant to a writ of error filed in the Clerk's Office of the Circuit Court of the United States for the Fifth Circuit and Eastern District of Louisiana, wherein the heirs of Lafayette, to wit: Charlotte Mathilde Dumottier de Lafayette, wife of Maurice Poivre Bureaux de Pusey, Maurice Poivre Bureaux de Pusey, Nathaniel Réné Emilie Dumottier de Lafayette, wife of Adolphe Joseph Scipion Perier, Adolphe Jo-

seph Scipion Perier, Oscar Thomas Gilbert Dumottier de Lafayette, Edmond Dumottier de Lafayette, Clementine Adrienne Dumottier de Lafayette, wife of Auguste de la Bouninier de Beaumont, Auguste de la Bouninier de Beaumont, Marie Pauline de Lasteyrie du Saillant, wife of Charles Francois Marie de Remusat, Charles Francois Marie de Remusat, Francois Melanie de Lasteyrie du Saillant, wife of Claude Francois Philibert Tireny de Corcelle, Claude Francois Philibert Tireny de Corcelle, Adrienne Jules de Lasteyrie du Saillant, Anastasia Pauline Louise Dumottier de Lafayette, widow of Juste Charles Cesar Foy de la Tour Maubourg, heirs and legal representatives of the late Major-General Lafayette, are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiffs in error as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, this third day of July, in the year of our Lord one thousand eight hundred and fifty-four.

J. A. CAMPBELL,
Associate Justice of the Supreme Court of the United States.

[Endorsed on above.]

United States Circuit Court, No. 2116. Heirs of Lafayette *v.* Heirs and Legal Representatives of F. J. Le Breton D'Orgenois et als. Citation in Error.

Marshal's Return.

Received, July 25th, 1854, and on the 25th day of September, 1854, served the within on the within-named G. Gottschalk, by delivering to him personally, a copy thereof at his office in Gravier Street, New Orleans.

J. M. KENNEDY,
U. S. Marshal.

By EMILE MARY,
Deputy Marshal.

The United States of America: The President of the United States, to Charles Harrispe, Pierre Passebonne, Francois Valcour Volant La Barre, tutor of Pierre Volant, Anais, and Estelle La Barre, minor heirs of Louise Estelle Le Breton D'Orgenois and of Francois F. J. Le Breton D'Orgenois, Charles Harrispe, Henry Black, Charles Lawson, John Burgess, Mrs. Peggy Coxe, John Lanche, Jean Marie Porret, Thomas O'Hearn, Joachim Beaumont Livaudais, John D. Kemper, Francois Chauvin, Michael Gernon, John

Kemp, Jacques Demourouelle, Bernard de Santos, Pierre Ulysse Gueringen, Felix Marie Jacob, William O'Conner, Josephine Monrose, Mlle. Fillette Bonseigneur, Octave Morel, Therese Jacob, Pierre Paul Deverges, George Bonner, Miss Priscilla Russell, Joseph Kenton, George Gottschalk, William Dennis Smith, Pierre M. Faisans, Nathan E. Bailey, Edward C. Carter, and Ellen McDermott, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington on the first Monday of December next, pursuant to a writ of error filed in the Clerk's Office of the Circuit Court of the United States for the Fifth Circuit and Eastern District of Louisiana, wherein Heirs of Lafayette, to wit: Charlotte Mathilde Dumottier de Lafayette, wife of Maurice Poivre Bureaux de Pusey, Maurice Poivre Bureaux de Pusey, Nathaniel Rèné, Emilie Dumottier de Lafayette, wife of Adolphe Joseph Scipion Perier, Adolphe Joseph Scipion Perier, Oscar Thomas Gilbert Dumottier de Lafayette, Edmond Dumottier de Lafayette, Clementine Adrienne Dumottier de Lafayette, wife of Auguste de la Bonninier de Beaumont, Auguste de la Bonninier de Beaumont, Marie Pauline de Lasteyrie du Saillant, wife of Charles Francois Marie de Remusat, Charles Francois Marie de Remusat, Francois Melanie de Lasteyrie du Saillant, wife of Claude Francois Philibert Tireny de Corcelle, Claude Francois Philibert Tireny de Corcelle, Adrienne Jules de Lasteyrie du Saillant, Anastasia Pauline Louise Dumottier de Lafayette, widow of Juste Charles Cesar Foy de la Tour Maubourg, heirs and legal representatives of the late Major-General Lafayette, are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiffs in error as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, this third day of July, in the year of our Lord one thousand eight hundred and fifty-four.

J. A. CAMPBELL,

Associate Justice of the Supreme Court of the United States.

(Endorsed on above.)

United States Circuit Court, No. 2116. Heirs of Lafayette *v.* Heirs of F. J. Le Breton D'Orgenois et als. Citation in Error.

Marshal's Return.

Received, July 25th, 1854, and on the 24th day of October, 1854, served the within on Pierre Passbone, by delivering a copy of

the same to him personally, at the city of New Orleans, and on the first day of November, 1854, served the within on Charles Harrispe, by delivering a copy thereof to him personally, in the city of New Orleans, and returned 2d November, 1854.

J. M. KENNEDY,
United States Marshal.

By EMILE MARY,
Deputy Marshal.

The United States of America: The President of the United States: To Thomas O'Hearn, Joachim Beaumont Livaudais, Francois Valcour Volant La Barre, Tutor of Pierre Volant, Anais and Estelle La Barre, minor heirs of Louise Estelle Le Breton D'Orgenois and of Francois J. Le Breton D'Orgenois, John D. Kemper, Francois Chauvin, Michael Gernon, John Kemp, Edward C. Carter, Ellen McDermott, Jacques Demourouelle, Bernard De Santos, Henry Black, Charles Lawson, John Lanche, Jean Marie Poret, Pierre Ulysse Gueringen, Felix Marie Jacob, William O'Conner, Josephine Monrose, Mademoiselle Fillette Bonseigneur, Octave Morel, Therese Jacob, Pierre Paul Deverges, Charles Harrispe, Pierre Passbonne, John Burgess, Mrs. Peggy Coxe, George Bonner, Miss Priscilla Russel, Joseph Kenton, George Gottschalk, William Dennis Smith, Pierre M. Faisans and Nathan E. Bailey. Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden in the City of Washington, on the first Monday of December next, pursuant to a writ of error filed in the Clerk's office of the Circuit Court of the United States for the Fifth Circuit and Eastern District of Louisiana, wherein heirs of Lafayette, to wit: Charlotte Mathilde Dumottier de Lafayette, wife of Maurice Poivre Bureaux de Pusey, Maurice Poivre Bureaux de Pusey, Nathaniel René Emelie Dumottier de Lafayette, wife of Adolphe Joseph Scipion Perier, Adolphe Joseph Scipion Perier, Oscar Thomas Gilbert Dumottier de Lafayette, Edmond Dumottier de Lafayette, Clementine Adrienne Dumottier de Lafayette, wife of Auguste de la Bonninier de Beaumont, Auguste de la Bonninier de Beaumont, Marie Pauline de Lasteyrie du Saillant, wife of Charles Francois Marie de Remusat, Charles Francois Marie de Remusat, Francois Melanie de Lasteyrie du Saillant, wife of Claude Francois Philibert Tireny de Corcelle, Claude Francois Tireny de Corcelle, Adrienne Jules de Lasteyrie du Saillant, Anastasie Pauline Louise Dumottier de Lafayette, widow of Juste Charles Cesar Foy de la Tour Maubourg—heirs and legal representatives of the late Major-General Lafayette, are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiffs in error as in said writ of error men-

tioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, this third day of July, in the year of our Lord one thousand eight hundred and fifty-four.

J. A. CAMPBELL,
Associate Justice of the Supreme Court of the United States.

(Endorsed on above.)

United States Circuit Court. No. 2116. Heirs of Lafayette *v.* Heirs of F. J. Le Breton D'Orgenois et als. Citation in Error.

Marshal's Return.

Received July 25th, 1854, and on the 25th day of September, 1854, served the within on the within-named Joachim Beaumont Levaudais, by delivering to him personally a copy of the same in the City of New Orleans.

J. M. KENNEDY,
United States Marshal.

By EMILE MARY,
Deputy Marshal.

The United States of America: The President of the United States: To Francois Chauvin, John D. Kemper, Michael Gernon, John Kemp, Francois Valcour Volant La Barre, tutor of Pierre Volant, Anais, and Estelle La Barre, minor heirs of Louise Estelle Le Breton D'Orgenois, and of Francois J. Le Breton D'Orgenois, Edward C. Carter, Ellen McDermott, Jacques Dumourouelle, Bernard de Santos, Henry Black, Charles Lawson, John Lanche, Jean Marie Porret, Thomas O'Hearn, Joachim Beaumont Levaudais, Pierre Ulysse Gueringue, Felix Marie Jacob, William O'Conner, Josephine Monrose, Francois Chauvin, Mademoiselle Fillette Bonseigneur, Octave Morel, Therese Jacob, Pierre Paul Deverges, Charles Harrispe, Pierre Passbonne, John Burgess, Mrs. Peggy Coxe, George Bonner, Miss Priscilla Russel, Joseph Kenton, George Gottschalk, William Dennis Smith, Pierre de Faisans, and Nathan E. Baily. Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the City of Washington, on the first Monday of December next, pursuant to a writ of error filed in the Clerk's Office of the Circuit Court of the United States for the Fifth Circuit and Eastern District of Louisiana, wherein heirs of Lafayette, to wit: Charlotte Mathilde Dumottier de

Lafayette, wife of Maurice Poivre Bureaux de Pusey, Maurice Poivre Bureaux de Pusey, Nathaniel René Emilie Dumottier de Lafayette, wife of Adolphe Joseph Scipion Perier, Adolphe Joseph Scipion Perier, Oscar Thomas Gilbert Dumottier de Lafayette, Edmond Dumottier de Lafayette, Clementine Adrienne Dumottier de Lafayette, wife of Auguste de la Bonninier de Beaumont, Auguste de la Bonninier de Beaumont, Marie Pauline de Lasteyrie du Saillant, wife of Charles Francois Marie de Remusat, Charles Francois Marie de Remusat, Francois Melanie de Lasteyrie du Saillant, wife of Claude Francois Philibert Tireny de Corcelle, Claude Francois Tireny de Corcelle, Adrienne Jules de Lasteyrie du Saillant, Anastasia Pauline Louise Dumottier de Lafayette, widow of Juste Charles Cesar Foy de la Tour Maubourg, heirs and legal representatives of the late Major-General Lafayette, are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the Judgment rendered against the said plaintiffs in error as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, this third day of July, in the year of our Lord one thousand eight hundred and fifty-four.

J. A. CAMPBELL,
Associate Justice of the Supreme Court of the United States.

(Endorsed on above.)

United States Circuit Court. No. 2116. Heirs of Lafayette *v.* Heirs of F. J. Le Breton D'Orgenois et als. Citation in Error.

Marshal's Return.

Received July 25th, 1854, and on the first day of November, 1854, served the within on the within-named John Kemper, by delivering a copy thereof to Mary Kemper, the wife of said John Kemper, and who is a person over the age of fourteen years, at the domicil of said John Kemper, in the City of New Orleans, the said John Kemper being absent at the time.

J. M. KENNEDY,
United States Marshal.
By EMILE MARY,
Deputy Marshal.

The United States of America: The President of the United States to Michael Guernon, John Kemp, Francois Valcour Volant Labarre (Tutor of Pierre Volant, Anais, and Estelle La Barre, minor heirs of Louise Estelle Le Breton D'Orgenois and of Francois J. Le Breton D'Orgenois), Edward C. Carter, Ellen McDermott, Jacques Dumourouelle, Bernard de Santos, Henry Black, Charles

Lawson, John Lanche, Jean Marie Porret, Thomas O'Hearn, Joachim Beaumont Levaudais, Pierre Ulysse Gurinquen, Felix Marie Jacob, William O'Conner, Josephine Monrose, Francis Chauvin, Mlle. Fillette Bonseigneur, Octave Morel, Therese Jacob, John D. Kemper, Pierre Paul Deverges, Charles Harrispe, Pierre Passebonne, John Burgess, Mrs. Peggy Coxe, George Bonner, Miss Priscilla Russel, Joseph Kenton, George Gottschalk, William Dennis Smith, Pierre M. Faisans, and Nathan E. Bailley, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the City of Washington on the first Monday of December next, pursuant to a writ of error filed in the Clerk's Office of the Circuit Court of the United States for the Fifth Circuit and Eastern District of Louisiana, wherein Heirs of Lafayette, to wit: Charlotte Mathilde Dumottier de Lafayette (wife of Maurice Poivre Bureaux de Pusey), Maurice Poivre Bureaux de Pusey, Nathaniel René Emilie Dumottier de Lafayette (wife of Adolphe Joseph Scipion Perier), Adolphe Joseph Scipion Perier, Oscar Thomas Gilbert Dumottier de Lafayette, Edmond Dumottier de Lafayette, Clementine Adrienne Dumottier de Lafayette (wife of Auguste de la Boninnier de Beaumont), Auguste de la Boninnier de Beaumont, Marie Pauline de Lasteyrie du Saillant (wife of Charles Francois Marie de Remusat), Charles Francois Marie de Remusat, Francois Melanie de Lasteyrie du Saillant (wife of Claude Francois Philibert Tireny de Corcelle), Claude Francois Philibert Tireny de Corcelle, Adrienne Jules de Lasteyrie du Saillant, Anastasie Pauline Louise Dumottier de Lafayette (widow of Juste Charles Cesar Foy de la Tour Maubourg), heirs and legal representatives of the late Major-General Lafayette, are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiffs in error as in said writ of error mentioned, should not be corrected, and why speedy justice should be done to the parties in that behalf.

Witness, the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, this third day of July, in the year of our Lord one thousand eight hundred and fifty-four.

J. A. CAMPBELL,
Asso. Justice of the Supreme Court of the United States.

(Endorsed on above.)

United States Circuit Court, No. 2116, Heirs of Lafayette *v.* Heirs of F. J. Lebreton D'Orgenois et als. Citation in Error.

Marshal's Return.

Received July 25th, 1854, and on the 27th day of September,

1854, served the within on Michael Gernon by delivering to him personally a copy thereof, in the City of New Orleans. And on the 27th day of September, 1854, served the within on the within-named John Kemp, by delivering a copy thereof to John Kemp, a son of said John Kemp, and who is a free, white person, over the age of fourteen years (at the store of said within-named John Kemp, who was absent), in the City of New Orleans. And returned November 2d, 1854.

J. M. KENNEDY,
United States Marshal.
By EMILE MARY,
Deputy Marshal.

The United States of America: The President of the United States to Jules E. Blanc, executor of Evariste Blanc, deceased, Josephine Chazal, widow of Jean Marie Griffon, tutrix of Clemence Griffon, a minor, Samuel Moore and his wife, Marie Francois Malvina Lovell, Thomas Suzanne Griffon, Hypolite Griffon, and Elbanie Griffon (wife of Michel Maher her husband), and the said Michel Maher, and Marie Francois Odile Griffon (wife of Auguste Bellonguet), and Auguste Bellonguet, and Theodore Bailley Blanchard, testamentary executor of Theodore Nicolet, deceased. Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the City of Washington, on the first Monday of December next, pursuant to a writ of error filed in the Clerk's Office of the Circuit Court of the United States for the Fifth Circuit and Eastern District of Louisiana, wherein the "Heirs of Lafayette," to wit: Charlotte Mathilde Dumottier de Lafayette (wife of Maurice Poivre Bureaux de Pusey), Maurice Poivre Bureaux de Pusey, Nathaniel René Emilie Dumottier de Lafayette (wife of Adolphe Joseph Scipion Perier), Adolphe Joseph Scipion Perier, Oscar Thomas Gilbert Dumottier de Lafayette, Edmond Dumottier de Lafayette, Clementine Adrienne Dumottier de Lafayette (wife of Auguste de la Bonninier de Beaumont), Auguste de la Bonninier de Beaumont, Marie Pauline de Lasteyrie du Saillant (wife of Charles Francois Marie de Remusat), Charles Francois Marie de Remusat, Francois Melanie de Lasteyrie du Saillant (wife of Claude Francoise Philibert Tireny de Corcelle), Claude Francois Philibert Tireny de Corcelle, Adrienne Jules de Lasteyrie du Saillant, and Anastasie Pauline Louise Dumottier de Lafayette (widow of Juste Charles Ceasar Foy de la Tour Maubourg), heirs and legal representatives of the late Major-General Lafayette, are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiffs in error as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, this third day of July, in the year of our Lord one thousand eight hundred and fifty-four.

J. A. CAMPBELL,
Asso. Justice of the Supreme Court of the United States.

(Endorsed on above.)

United States Circuit Court. No. 2143. Heirs of Lafayette *v.* Heirs of Griffon et als. Citation in Error.

Marshal's Return.

Received November 1st, 1854; and on the 2d day of November, 1854, served the within on Jules E. Blanc, Executor, &c., by delivering to him personally a copy thereof in the City of New Orleans; and returned November 4th, 1854.

J. M. KENNEDY,
United States Marshal.
By EMILE MARY,
Deputy Marshal.

The United States of America: The President of the United States, to Jules E. Blanc, executor of Evariste Blanc, deceased, Michaela Leonarda Almonester, the wife separated from bed and board of Joseph Xavier Delfant D. Pontalba, through Eugene Rochereau, her attorney in fact, Samuel Moore, and Marie Francoise Malvina Lovell, his wife, separate in property from the said Samuel Moore, and Theodore Bailey Blanchard, testamentary executor of Theodore Nicolet, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the City of Washington, on the first Monday of December next, pursuant to a writ of error filed in the Clerk's Office of the Circuit Court of the United States for the Fifth Circuit and Eastern District of Louisiana, wherein the "Heirs of Lafayette," to wit: Charlotte Mathilde Dumottier de Lafayette, wife of Maurice Poivre Bureaux de Pusey, Maurice Poivre Bureaux de Pusey, Nathaniel René Emilie Dumottier de Lafayette, wife of Adolphe Joseph Scipion Perier, Adolphe Joseph Scipion Perier, Oscar Thomas Gilbert Dumottier de Lafayette, Edmond Dumottier de Lafayette, Clementine Adrienne Dumottier de Lafayette, wife of Auguste de la Bouninier de Beaumont, Auguste de la Bouninier de Beaumont, Marie Pauline de Lasteyrie du Saillant, wife of Charles Francois Marie de Remusat, Charles Francois Marie de Remusat, Francois Melanie du Saillant, wife of Claude Francois Philibert Tireny de Corcelle, Claude Francois Philibert Tireny de Corcelle, Adrienne Jules de Lasteyrie du Saillant,

and Anastasie Pauline Louise Dumottier de Lafayette, widow of Juste Charles Cesar Foy de la Tour Maubourg, heirs and legal representatives of the late Major-General Lafayette, are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiffs in error as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, this third day of July, in the year of our Lord one thousand eight hundred and fifty-four.

J. A. CAMPBELL,
Associate Justice of the Supreme Court of the United States.

(Endorsed on above.)

United States Circuit Court, No. 2111, Heirs of Lafayette *v.* Madame Pontalba et als. Citation in Error.

Marshal's Return.

Received November 1st, 1854, and on the 2d day of November, 1854, served the within on Jules E. Blanc, executor, &c., by delivering to him personally, a copy thereof, in the City of New Orleans, and returned November 4th, 1854.

J. M. KENNEDY,
United States Marshal.
By EMILE MARY,
Deputy Marshal.

The United States of America: The President of the United States, To Nathan E. Bailey, William O'Connor, F. M. Jacob, Pierre Ulysse Guirengue, Therese Jacobs, Jacques Demourelle, Joseph Kenton, Pierre Paul Deverges, Francois Valcour Volant La Barre, tutor of Pierre Volant, Anais, and Estelle La Barre, minors, &c., &c., Widow Josephine Monrose, Edward C. Carter, Ellen McDermott, Henry Black, Charles Lawson, John Lanche, Jean Marie Porret, Thomas O'Hearn, Joachim Beaumont Livaudais, Francis Chauvin, Octave Morel, John D. Kemper, Michael Gernon, John Kemp, Charles Harrispe, Pierre Passebone, John Burgess, Mrs. Peggy Coxe, George Bonner, Miss Priscilla Russel, George Gottschalk, William Dennis Smith, Pierre M. Faisans, Bernard de Santos, and Fillette Bonseigneur, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the City of Washington on the first Monday of December next, pursuant to a writ of

error filed in the Clerk's Office of the Circuit Court of the United States for the Fifth Circuit and Eastern District of Louisiana, wherein the "Heirs of Lafayette," to wit: Charlotte Mathilde Dumottier de Lafayette, wife of Maurice Poivre Bureaux de Pusey, Maurice Poivre Bureau de Pusey, Nathaniel René Emilie Dumottier de Lafayette, wife of Adolphe Joseph Scipion Perier, Adolphe Joseph Scipion Perier, Oscar Thomas Gilbert Dumottier de Lafayette, Edmond Dumottier de Lafayette, Clementine Adrienne Dumottier de Lafayette, wife of Auguste de la Bouninier de Beaumont, Auguste de la Bouninier de Beaumont, Marie Pauline de Lasteyrie du Saillant, wife of Charles Francoise Marie de Remusat, Charles Francois Marie de Remusat, Francois Melanie de Lasteyrie du Saillant, wife of Claude Francois Philibert Tireny de Corcelle, Claude Francois Philibert Tireny de Corcelle, Adrienne Jules de Lasteyrie du Saillant, Anastasie Pauline Louise Dumottier de Lafayette, widow of Juste Charles Cesar Foy de la Tour Maubourg, heirs and legal representatives of the late Major-General Lafayette, are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiffs in error as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, this third day of July, in the year of our Lord one thousand eight hundred and fifty-four.

J. A. CAMPBELL,
Associate Justice of the Supreme Court of the United States.

(Endorsed on above.)

United States Circuit Court, No. 2116; Heirs of Lafayette *v.* Heirs of F. J. Le Breton D'Orgenois et als. Citation in Error.

Service accepted for Bernard de Santos and Fillette Bonseigneur, defendants in error.

E. TULLEUL,
New Orleans, 2d November, 1854. Attorney.

The United States of America: the President of the United States, to John Aldige, Joseph Kenton, Charles De Blanc, Coroline E. Long, f. w. c., Thomas Finn, Thomas Murphy, Bernard Duffy, Patrick Farley, Patrick Murphy, Nicholas M. Benachi, Nathan E. Bailey, Theodore Frois, John Creiser, Timothy Quinn, Eugene Rochereau, Annett Scates, Margaret Scates, Mary Walker, f. w. c., Gerd H. W. Lehde, William Penn, Robert Frazier, Samuel Locke,

widow A. E. Lesseps, Hector McNeill, Christian R. Stumpf, M. McCaitiff, and Patrick Lawler. Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the City of Washington on the first Monday of December next, pursuant to a writ of error filed in the Clerk's Office of the Circuit Court of the United States for the Fifth Circuit and Eastern District of Louisiana, wherein the "Heirs of Lafayette," to wit: Charlotte Mathilde Dumottier de Lafayette, wife of Maurice Poivre Bureaux de Pusey, Maurice Poivre Bureaux de Pusey, Nathaniel Rene Emilie Dumottier de Lafayette, wife of Adolphe Joseph Scipion Perier, Adolphe Joseph Scipion Perier, Oscar Thomas Gilbert Dumottier de Lafayette, Edmond Dumottier de Lafayette, Clementine Adrienne Dumottier de Lafayette, wife of Auguste de la Bonninier de Beaumont, Auguste de la Bonninier de Beaumont, Marie Pauline de Lasteyrie du Saillant, wife of Charles Francois Marie de Remusat, Charles Francois Marie de Remusat, Francois Melanie de Lasteyrie du Saillant, wife of Claude Francois Philibert Tireny de Corcelle, Claude Francois Philibert Tireny de Corcelle, Adrienne Jules de Lasteyrie du Saillant, Anastasie Pauline Louise Dumottier de Lafayette, widow of Juste Charles Cesar Foy de la Tour Maubourg, heirs and legal representatives of the late Major-General Lafayette, deceased, are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the Judgment rendered against the said plaintiffs in error as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, this third day of July, in the year of our Lord one thousand eight hundred and fifty-four.

J. A. CAMPBELL,
Asso. Justice of the Supreme Court of the United States.

(Endorsed on above.)

United States Circuit Court. No. 2109. Heirs of Lafayette *v.* Joseph Kenton and others. Citation in error.

Service acknowledged for Joseph Kenton, N. E. Bailey, Thomas Finn, Patrick Farley, Nicholas Benaqui, Eugene Rochereau, William Penn, Hector McNeill, Robert Frasier, and Patrick Lawler, defendants in error.

C. ROSELIUS,
Of Counsel.

Service acknowledged for Samuel Locke, Thomas Murphy, and Alexander W. Scates, for self and as administrator of the property of his children, Annette and Margaret Scates, defendants in error.

EDW. H. DURELL,
Of Counsel.

The United States of America: the President of the United States, to Mary Walker, f. w. c., Joseph Kenton, Charles Deblanc, Caroline E. Long, f. w. c., Thomas Finn, Thomas Murphy, Bernard Duffy, Patrick Farley, Patrick Murphy, Nicholas M. Benachi, Nathan E. Bailey, Theodore Frois, John Creiser, Timothy Quinn, Eugene Rochereau, Annett Scates, Margaret Scates, Gerd H. W. Lehde, William Penn, John Aldige, Robert Frazier, Samuel Locke, Widow A. E. Lesseps, Hector McNeill, Christian R. Stumpf, M. McCaitiff, and Patrick Lawler. Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the City of Washington on the first Monday of December next, pursuant to a writ of error filed in the Clerk's Office of the Circuit Court of the United States for the Fifth Circuit and Eastern District of Louisiana, wherein the "Heirs of Lafayette," to wit: Charlotte Mathilde Dumottier de Lafayette, wife of Maurice Poivre Bureaux de Pusey, Maurice Poivre Bureaux de Pusey, Nathaniel René Emilie Dumottier de Lafayette, wife of Adolphe Joseph Scipion Perier, Adolphe Joseph Scipion Perier, Oscar Thomas Gilbert Dumottier de Lafayette, Edmond Dumottier de Lafayette, Clementine Adrienne Dumottier de Lafayette, wife of Auguste de la Bonninier de Beaumont, Auguste de la Bonninier de Beaumont, Marie Pauline de Lasteyrie du Saillant, wife of Charles Francois Marie de Remusat, Charles Francois Marie de Remusat, Francois Melanie de Lasteyrie du Saillant, wife of Claude Francois Philibert Tireny de Corcelle, Claude Francois Philibert Tireny de Corcelle, Adrienne Jules de Lasteyrie du Saillant, Anastasie Pauline Louise Dumottier de Lafayette, widow of Juste Charles Cesar Foy de la Tour Maubourg, heirs and legal representatives of the late Major-General Lafayette, deceased, are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the Judgment rendered against the said plaintiffs in error as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, this third day of July, in the year of our Lord one thousand eight hundred and fifty-four.

J. A. CAMPBELL,
Asso. Justice of the Supreme Court of the United States.

(Endorsed on above.)

United States Circuit Court. No. 2109. Heirs of Lafayette *v.* Joseph Kenton et als. Citation in error.

Service acknowledged for C. R. Stumpf, defendant in error.
3d November, 1854.

J. J. LUGENBUHL,
Atty.

The United States of America: The President of the United States, to Josephine Chazal, widow of Jean Marie Griffon, tutrix of Clemence Griffon, a minor, Samuel Moore, and his wife Marie Francoise Malvina Lovell, Thomas Suzanne Griffon, Hypolite Griffon, and Elbanie Griffon, wife of Michel Maher, and Michel Maher, her husband, Marie Francoise Odile Griffon, wife of Auguste Bellonguet, and Auguste Bellonguet, and Theodore Bailey Blanchard, testamentary executor of Theodore Nicolet, deceased, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the City of Washington on the first Monday of December next, pursuant to a writ of error filed in the Clerk's Office of the Circuit Court of the United States for the Fifth Circuit and Eastern District of Louisiana, wherein the Heirs of Lafayette, to wit: Charlotte Mathilde Dumottier de Lafayette, wife of Maurice Poivre Bureaux de Pusey, Maurice Poivre Bureaux de Pusey, Nathaniel René Emilie Dumottier de Lafayette, wife of Adolphe Joseph Scipion Perier, Adolphe Joseph Scipion Perier, Oscar Thomas Gilbert Dumottier de Lafayette, Edmond Dumottier de Lafayette, Clementine Adrienne Dumottier de Lafayette, wife of Auguste de la Bouninier de Beaumont, Auguste de la Bouninier de Beaumont, Marie Pauline de Lasteyrie du Saillant, wife of Charles Francois Marie de Remusat, Charles Francois Marie de Remusat, Francois Melanie de Lasteyrie du Saillant, wife of Claude Francois Philibert Tireny de Corcelle, Claude Francois Philibert Tireny de Corcelle, Adrienne Jules de Lasteyrie du Saillant, and Anastasie Pauline Louise Dumottier de Lafayette, widow of Juste Charles Cesar Foy de la Tour Maubourg, heirs and legal representatives of late Major-General Lafayette, are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiffs in error as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Roger B. Taney, Chief Justice of the

Supreme Court of the United States, this third day of July, in the year of our Lord one thousand eight hundred and fifty-four.

J. A. CAMPBELL,
Associate Justice of the Supreme Court of the United States.

(Endorsed on above.)

United States Circuit Court, No. 2143, Heirs of Lafayette *v.* Heirs of Griffon et als.; Citation in Error.

Service acknowledged for defendants in error.

LOUIS JANIN,
Of Counsel.

New Orleans, October 31, 1854.

The United States of America: The President of the United States, to Michaela Leonarda Almonester, the wife separated from bed and board of Joseph Xavier Delfant De Pontalba, through Eugene Rochereau, her attorney in fact, Samuel Moore, and Marie Francoise Malvina Lovell, his wife, separate in property from the said Samuel Moore, and Theodore Bailey Blanchard, testamentary executor of Theodore Nicolet, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the City of Washington on the first Monday of December next, pursuant to a writ of error filed in the Clerk's Office of the Circuit Court of the United States for the Fifth Circuit and Eastern District of Louisiana, wherein the "Heirs of Lafayette," to wit: Charlotte Mathilde Dumottier de Lafayette, wife of Maurice Poivre Bureaux de Pusey, Maurice Poivre Bureaux de Pusey, Nathaniel René Emilie Dumottier de Lafayette, wife of Adolphe Joseph Scipion Perier, Adolphe Joseph Scipion Perier, Oscar Thomas Gilbert Dumottier de Lafayette, Edmond Dumottier de Lafayette, Clementine Adrienne Dumottier de Lafayette, wife of Auguste de la Bouninier de Beaumont, Auguste de la Bouninier de Beaumont, Marie Pauline de Lasteyrie du Saillant, wife of Charles Francois Marie de Remusat, Charles Francois Marie de Remusat, Francois Melanie de Lasteyrie du Saillant, wife of Claude Francois Philibert Tireny de Corcelle, Claude Francois Philibert Tireny de Corcelle, Adrienne Jules de Lasteyrie du Saillant, and Anastasie Pauline Louise Dumottier de Lafayette, widow of Juste Charles Cesar Foy de la Tour Maubourg, heirs and legal representatives of the late Major-General Lafayette, are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiffs in error as in said writ of

error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, this third day of July, in the year of our Lord one thousand eight hundred and fifty-four.

J. A. CAMPBELL,
Associate Justice of the Supreme Court of the United States.

(Endorsed on above.)

United States Circuit Court, No. 2111; Heirs of Lafayette *v.* Madame Pontalba et als.; Citation in Error.

Service acknowledged for defendants in error.

LOUIS JANIN,
Of Counsel.

New Orleans, October 31, 1854.

SUPREME COURT OF THE UNITED STATES.

DECEMBER TERM, 1855.

HEIRS OF GENERAL LAFAYETTE
vs.
JOSEPH KENTON and als. } No. 42.

And

HEIRS OF GENERAL LAFAYETTE
vs.
EDWARD C. CARTER and als. } No. 43.

A portion, or the whole, of several documents making a part of the records of the two above entitled cases having been omitted from the transcripts brought up from the lower court, and complete copies of the documents thus partially, or entirely, omitted by the clerk having been obtained, which copies are duly certified:

It is, therefore, agreed by the parties to the said cases, that the said copies, to wit, the copies of the claims of J. B. Castillon, No. 308, F. J. Le Breton D'Orgenois, No. 381, and F. J. Le Breton D'Orgenois, No. 376, with the evidence filed in support of them, and the confirmation of the same, shall be filed by the clerk of the supreme court, and printed forthwith, and the printed copies of the same shall be held and considered as making a part of the record in each of the said above entitled cases; and that it shall also be held and considered, that with these additions the records in the two cases are full and complete.

J. P. BENJAMIN,
For def'ts in error.
MILES TAYLOR,
For plaintiff in error.

Claim of F. J. Lebreton D'Orgenois.
No. 381.

Defd'ts No. 3, *offered* 10*th May*, 1853.
(Signed) J. W. GURLEY, *Cl'k.*

Francois J. Lebreton D'Orgenois claims a tract of land situated on the left side of the road which leads from the city of New Orleans to the Bayou St. John, containing sixty toises in front, and extending its depth to the front lines of the former lands of the estate of Pradelles, now John Gravier's, and containing a total surface of seventy-six arpens, with 275 toises; bounded on one side by the property of Michel,

free negro, and on the other side by those of John Bte. Castillon, as represented in the annexed plat, executed by Barthelemy Lafon, deputy surveyor for the county of Orleans, dated July 14th, 1807.

In the year 1758, this land having been surveyed, together with a greater portion then granted to ——— Lebreton, grandfather to the claimant, its boundary lines were directed towards the rear, S. W., and extended to the lands appertaining to the estate of Pradelles, now Gravier, as af's'd, which has always been considered as the limit of the depth of the land in question; finally, by a succession of subsequent deeds of conveyance, it has become the real property of the claimant, as it appears by the copies of the transfers hereunto exhibited.

N. B.—The proces verbal of survey of the operation above alluded to will be found amongst the title-papers of John Bte. Castillon, who claims part of the adjoining lands to this. Some of the title-papers of the land begin to be recorded in book 2 W. 3, page 300.

LAND OFFICE, NEW ORLEANS, 12 *Feb'y*, 1853.

I hereby certify the foregoing to be a true copy of the original notice of claim No. 381, which was filed in this office on the 20th of June, 1808.

In testimony whereof, I have hereunto subscribed my name, on the day and year before written.

(Signed) CHARLES FITZ, *Register.*

A true copy of the original.

Attest: J. W. GURLEY, *Cl'k.*

Survey.—See plat hereto annexed.

[*For plat see original, p.* 5.]

Survey.

(Trans. from the French.)—No. 381.

Ward of the Bayou St. Jean—Road to said bayou.

At New Orleans, 14th July, 1807, I, the undersigned, Barthelemy Lafon, deputy of Isaac Biggs, surveyor general of the territory south of Tennessee, certify, that at the request of Mr. Lebreton D'Orgenois, residing in the road to the Bayou St. Jean, upon a lot situated in said ward, I proceeded there for the purpose of measuring the extent, fixing or running the landmarks, if necessary; establishing the lines between the adjoining neighbors, &c.

Being on the spot, I required of him to produce to me the documents authorizing him to have the operation performed, and he presented to me the following:

1st. A proces verbal, or detail of survey, by which it appears that in August, 1758, the lines of the Lebretton grant ran towards the S. W., and that the parcel of land had a depth as far as the heirs of the succession Pradelles, now Gravier.

2nd. Several acts of sale, by which this parcel of land was sold, with the depth it might have.

3d. Two several acts by which Antonio Ramis sells to J. C. Lebretton D'Orgenois a lot of land two arpens in front, and another act by which he sells to him all the depth that the lot might have.

Then, there being present the adjoining neighbors, Michel adjoining on the N. W., Castillon absent, Lebretton D'Orgenois, proprietor and claimant, J. Roach, assisting witness, I proceeded to the admeasurement of the said lot of land. I went to the point A, and then taking a direction S. 49° 55′ W., by compass I opened and set landmarks on the dividing line of Mr. Castillon; and measuring from the said point A, 220 toises, I planted a landmark B. From the point B, measuring 260 toises, over wooded land, I planted another landmark, C, at 60 feet from the canal; this direction falling on the centre of the basin, I continued to measure as far as the point E, when I stopped measuring, being 524 toises further on; all this line having a depth of thirty-seven arpens and twenty toises, the basin included. Returning to the point A, I took up a line, running perpendicularly to the first, and I measured it on the dotted line two arpens, forming the front of the said plantation, on the road of the Bayou St. John. Arrived at the point M, I directed my graphometer S. 49° 55′ W., (variation 8° 10′ E,) and measuring 495 toises, I planted a landmark near the canal, ten toises therefrom, at the point N. From this point, measuring 300 toises, I planted a cypress landmark at O; measuring again 228 toises, I stopped my admeasurement, the line being in length thirty-eight arpens and twenty toises, the width of the canal included, and I planted a landmark. I also planted several other landmarks, as indicated on the plat, with all the distances. So that there results in favor of Mr. Lebreton a lot of ground, bounded on the northeast by the Bayou road, on the N. W. by the free negro Michel, on the S. W. by Jean Gravier, and on the S. E. by Jean Baptiste Castillon, having a superficial surface of seventy-six arpens and 275 toises, of which ten arpens are cultivable land, and the remainder a cypress swamp; no high prairie land, nor no marsh.

In testimony whereof, I have given the present plan and proces verbal.

(Signed) LAFON.

(From the Spanish.)

Deed.

Know all men by these presents, that I, Doña Juana Chevalier, widow of the late D. Santiago Lamothe, a resident of this city, acknow-

ledge to have well and truly sold to Don Gabriel Peyroux de Roche Molire, also a resident of this city, a plantation, composed of six arpens in front by the depth which it may have, situated on the road of the Bayou St. John, bounded on one side by Don Josef Chalon, and on the other side by the free negress called Martina, the same which I acquired by purchase from D'n Pedro Conturior, and I sell the same to him, free from incumbrance or mortgage, as I, the present notary, in my capacity of recorder of mortgages, certify, after examination of the books thereof under my charge, and for the price of fifteen hundred hard dollars, whereof there have been paid to me in cash five hundred dollars, and which I acknowledge to have received; I renounce the proof thereof, laws of delivery, the exception of *non numerata pecunia*, fraud, and other laws relative thereto, and I grant a formal receipt; and the remaining one thousand dollars are to be given and paid to me within two years peremptorily, and which are to run and be counted from the first day of December next coming of this current year, for the entire credit. In virtue whereof, I desist from, and relinquish, all right of property, production, possession, and ownership, title, faculty, or recourse, and other actions, real or personal, which to the said plantation, mansion-house, and other edifices in said lot, I had and held; and I cede, renounce, and transfer the whole to the said purchaser, or whosoever may represent his rights, that as his own he may possess, enjoy, and alienate the same at his pleasure, in virtue of this act, which is passed as testimony of a strict delivery, whereby it is seen that he has acquired the possession without the necessity of further proof, from which I exonerate him; and I bind myself to the making good this sale in due form of law, with my person and property having and to have; and I give power to the tribunals of his majesty to compel me to the fulfilment thereof, with all the rigor of a judgment confessed and decided in the last resort; whereupon I renounce the laws, charters, rights, and privileges in my favor, and the formal general law prohibiting the same.

And being there present, I, the said Dn. Gabriel Peyroux de Roche Molire, I adopt this act, and thereby receive as purchased the aforesaid plantation and house and edifices thereon, at the sum and on the terms herein to me sold, acknowledging delivery to mē of the same; I renounce the proof, laws of delivery, of the thing unseen nor received, fraud, and the other laws relative thereto, and I grant a formal receipt, whereby I constitute myself a debtor, plain and simple, for the one thousand hard dollars, which I promise to give and pay to the said Dn. Juana Chevalier, or to her assigns, at the maturity of the credit assigned in this act, fully and without any litigation, together with the charges that the collection may occasion; and execution may be taken out against me in virtue of this act, and on the simple oath of the legal party, to which I refer. And, for the better security of my obligation, without the general law detracting from the special, nor the contrary, but that both rights she may make use of against the remainder of my property, I bind and specially mortgage, under the express clause of

non aliendo, the said plantation, together with the buildings thereon, promising not to sell nor in any manner whatever alienate the same until I have entirely paid off the aforesaid one thousand dollars; and whatever to the contrary hereof be done shall be null, and convey no right to third parties, or others in possession, to the prejudice of the said vendor. And to give further strength to this act, both the parties, each for what he or she engages, grant full power to the tribunals of his majesty to compel compliance therewith, with the rigor of confession of judgment, decided in the last resort; whereupon we renounce the laws, charters, rights and privileges in our favor, and the general law which prohibits our so doing.

In testimony whereof this act is passed, in the city of New Orleans, on the 23d of November, 1778.

I, the notary, testify that I know the parties signing this act, these being witnesses thereto: Dn. Josef de la Plau, Dn. Luis Liotau and Dn. Luis Lessassier, residents here present.

JEANNE CHEVALIER VEUVE LAMOTHE,
G. PEYROUX DE ROCHE MOLIRE.

Before me,

JUAN B'TA GARIE, *Not. Pub.*

Original translation by Mr. Hepburn.

Attest: J. W. GURLEY, *Cl'k.*

LAND OFFICE, NEW ORLEANS,
12*th February*, 1853.

I hereby certify the foregoing to be a true copy of the evidence in support of the claim of Francois J. Lebretton D'Orgenois, No. 381, of record in Book No. 3, pages 288 to 293.

In testimony whereof, I have hereunto subscribed my name, on the day and year before written.

(Signed) CHARLES FITZ, *Register.*

No. 381.

Francis J. Lebretton D'Orgenois claims a tract of land situate in the county of Orleans, on the left side of the Bayou St. John road, containing sixty toises in front, and extending back as far as the land of John Gravier, bounded on one side by land of Michel, a free negro, and on the other by land of Jno. B'te Castillon.

It appears that this land was actually inhabited and cultivated on the 20th of December, 1803, and that the same was continually inhabited and cultivated by those under whom the claimant holds, for more than ten consecutive years next preceding. Confirmed.

LAND OFFICE, NEW ORLEANS,
12*th February*, 1853.

I hereby certify the foregoing to be a true copy from the report of the board of commissioners for the eastern district of the Territory of

Orleans, of record in this office; and I further certify, that the foregoing notice of claim, evidence in support of the same, and report on the same, are true copies of the documents of record in this office, in support of the claim of Francis J. Lebretton D'Orgenois, No. 381.

In testimony whereof, I have hereunto subscribed my name, on the day and year before written.

(Signed) CHARLES FITZ, *Register.*

A true copy.—Attest:

J. W. GURLEY, *Cl'k.*

Claim of Jean Baptiste Castillon.

No. 308.

Document No. 42.—*Off'd by defts.* 9*th May*, 1853.

This day, Dec'r 20th, 1806, Jean B'te Castillon, an inhabitant of this city, presented himself at the office established for the verification and regulation of land titles in the Territory of Orleans and district of Louisiana, in virtue of the act of Congress of 2d March, 1805, who declared, that since the year 1792, when he settled in this province, he has there become proprietor of, and is in possession of, the lands hereafter mentioned, of which he makes the declaration as follows:

1st.
2d.
3d.
4th.
5th.
6th.
7th.

These items are left out by request.

CHS. FITZ, *Register.*

8th. A plantation belonging to Madam Castillon, situated on the Bayou St. John road, on the left hand in leaving the city, between Mr. Griffon and Mr. Castagendo, measuring six arpens in front on said road by 40 in depth, (if so much there be, inasmuch as it extends to the boundary line of the heirs of Pradel, now John Gravier;) the said plantation derived from the succession of the late Almonaster y Roxas, who acquired it from the heirs of Voisin, on the 2d day of July, 1782, before the notary. And these last had purchased it of Mek. Domini Moran and Alexander Latille, who had it from Mr. Lebreton, the grantor of Mr. Vandrenit A. Michel, intendent general, [*ordonateur general,*] under date of 29th April, 1752.

9th. A plantation belonging also to Madam Castillon, derived from the aforesaid succession, Almonester, called Lafourche, situated on the other side of the Bayou St. John, between the lands of Mr. Dernisseaux, now , and the lands of the Matairie, consisting of arpens, purchased from Joseph Chalon, who held from Henry Deprès and his wife, widow Duplanty, who purchased from Madam de Monleon, to whom it was granted by Mr. de Kerleree, on 10th May, 1758.

In testimony whereof, and in compliance with the law, I have made this present declaration, this 20th December, in the year 1806.

(Signed) J. B. CASTILLON.

LAND OFFICE, NEW ORLEANS,
25th January, 1853.

I hereby certify the foregoing to be a true copy of the original (with the exception of items 1 to 7 omitted) filed in this office on the 31st Dec'r, 1806, under No. 308.

In testimony whereof, I have hereunto subscribed my name, on the day and year before written.

CHARLES FITZ, *Register*.

Survey.—See plat hereto annexed.

[*For plat see original.*]

District of St. Jean.—Road, left-hand side.

At New Orleans, the 24th April, 1806, I, the undersigned, Berthelemy Lafon, deputy surveyor of Isaac Briggs, surveyor general of the territories south of the Tennessee, certify, that, at the request of Mr. Jean B'te Castillon, a resident of this city, I repaired to a tract of land, situated a quarter of a league from New Orleans, to measure the contents, fix the landmarks, or renew them in case of need, establish the lines between the adjoining neighbors, &c.

Being on the ground, I required of him to produce the documents which authorized him to have the operation performed, and he presented to me the following:

1st. An act of 24 August, 1758, by which Louis Cesar Lebretton gives to Louis de Morand a piece of land fifty-one toises in front, by a depth extending to the heirs of Pradelles. 2d. An act of 30 May, 1757, by which Louis Cesar Lebretton sells to Madam de Coulange a piece of land of six arpens 14 toises, from which the two (arpens) above mentioned were detached. 3d. An act of 30th June, 1758, by which this land was adjudicated to Mr. de Latille as eight arpens. 4th. And act of 13th November, 1776, by which Alexander Latille and Damini de Morand sell to Anne Marie Corbin, widow Voisin, eight arpens of this land. 5th. An act of 2 July, 1782, by which Pierre Voisin, Jules Lessassier, Charles Griffon, and Anne Voisin sell the said piece of land to Don. Andres Almonester. 6th. A process verbal of a survey of 4 April, 1783, by which Charles Laveau Trudeau measures six arpens of land in favor of the above mentioned, the lines parallel, running S. 50 W.

There being present the immediately adjoining neighbors, Antoine Ramis, Charles Griffon, Jean Baptiste Castillon, claimants, Jean Larralde, Louis Lebreton, and Pierre Pedesclaux, assisting witnesses, I proceeded to the admeasurement of the above mentioned piece of land. I went to the point A, and then, taking a direction S. 49° 55 W. by compass, I opened and placed landmarks on the line, dividing these lands from those of Antonio Ramis, and measuring from the said point A nine toises, I planted the landmark B. From the point B, measuring thirty-six toises three feet over cleared land, I planted a second landmark of cypress; measuring thirty-nine toises three feet, I planted another landmark, C. I continued the measurement to the point E, when stopped and planted a cypress landmark; the whole of this line being thirty-seven arpens fifteen toises in depth to the point E. Returning to the point A, I took the direction of a line running S. 40° 5 E., and I measured upon the dotted line six arpens, forming the front of said plantation. On arriving at the point N, I directed my graphometer towards S. 49° 55′ W., (variation N. 8° 10′ E.,) and measuring two toises of the way, I found an old stump of a tree, and planted the landmark N. From this point, measuring thirty toises, I found another stump, and planted a landmark O; measuring again 905 toises, I stopped; the line being in length thirty-four arpens and twenty toises. These old landmarks were placed by Mr. Laveau in 1783. The owner having shown me sufficient titles, I measured the depth upon the lands which I had previously surveyed for Mr. Lafayette; so that there results in favor of Jean Baptiste Castillon a lot of land bounded on the north by Antonio Ramis, on the south by Charles Griffon, on the W. by Jean Gravier, and on the E. by the Bayou road, having a superficie of two hundred and sixteen arpens, of which 30 are cultivable, no cypress swamp nor high prairie, and the rest swamp.

In faith of which I have given the present plan and proces verbal.

LAFON.

Deed.

Before the royal notary of the province of Louisiana, residing in New Orleans, in presence of the undersigned witnesses, personally appeared Mr. Louis Cesar Lebretton, counsellor, assessor to the supreme council of the province of Louisiana, who, by these presents, acknowledged and confessed to have this day sold, ceded, given up forever, relinquished from this moment and forever, and engages to guaranty from all disquietude his acts, and promise to Madam Francois Petit de Coulange, widow of the late Mr. Vincent Guillaume D'Auberville, commissary of marine, and intendent ordonnateur of this colony, here present and accepting for herself, her heirs and assigns, the quantity of six arpens fourteen toises and four feet of land, fronting on the road of the Bayou St. John, on the left hand on going from this city to the said bayou, by the same depth that my said late Sieur D'Auberville acquired from Brasillier, called Tousangean, such and the same that was to him granted by Mr. de Vaudreuil and Michel, governor and

ordinary commissioner (commissaire ordinaire) of this colony, under date of 29 April, 1752, and according to the survey thereof made by Mr. Deverges, royal engineer, and Olivier, principal inspector of highways, and surveyor; by which survey there were found to be eight arpens fourteen perches four feet, out of which the said vendor reserve two arpens front by the depth thereof, adjoining the succession of Mr. de Morant, and bounded by his lands; the said six arpens fourteen perches four feet now sold, adjoining on the other side to the lands which my said Sieur D'Auberville purchased from the said Tourangeau, on which land there are no buildings or enclosures, and in the same state in which it is now found, and is, with its circumstances and dependencies, to the end that my said lady and others may enjoy it in full property, as a thing to her belonging, in the same way as it was enjoyed by my said Sieur Lebretton, who declares the said land to be free, and exempt from all debts and mortgages. The aforesaid sale, cession, and transfer thus made for the price and sum of two thousand one hundred and forty livres, which my said lady promises to remit and pay over immediately to my said Sieur Lebretton, together with an islet (isle) forming the corner of the town on the side of my said Sieur de Morant, which my said lady delivers immediately to my said Sieur Lebretton, the title to which she promises to deliver. By means whereof, my said lady will remain in good and due possession of the land to her sold by my said Sieur Lebretton, promising mutually, each to the other, guarantee and indemnify against whosoever it may be, they oblige, renounce, &c.

Done and passed at New Orleans, in my office, in the year 1757, on the 30th day of May, in the presence of Messieurs de la Roussage, Chevalier de St. Louis, and Devaugine, an officer, relative by marriage to my said lady, and signed accordingly.

LEBRETTON,
COULANGE D'AUBERVILLE, *widow*,
DEVAUGINE,
GRAND PRÉ.

And I, notary, undersigned, CHANTALON.

And lower down is written: The said sum of two thousand one hundred forty livres were on the instant handed over and paid to my said Sieur Lebretton.

(Thus signed) LEBRETTON.

And I, notary, undersigned, CHANTALON.

Auction.

Louis, by the grace of God, king of France and Navarre, to all whom these presents may come, greeting:

We make it known, that in virtue of the decree of the supreme council of the province of Louisiana, under date of the present month, obtained at the request of Madam Françoise Petit de Coulange, widow of the late Mr. D'Auberville, mother and tutrix of the minor children

of the deceased, and herself, the said deceased bearing the homologation of an assembly of kinsmen and friends; it is ordered, in view of the determination of the king's attorney general, that a piece of land and plantation pertaining to the said succession shall be sold judicially to the highest offerer and last bidder in the mode accustomed, the money arising therefrom to be placed and employed for the benefit and advantage of the said minors. In consequence of all which, advertisements had been published and posted in all the accustomed and ordinary quarters and places of this city of New Orleans, as appears by the procès verbal of le Normand, constable, (huissier,) under date of the 5th of the present month, stating that on the tenth of said month, at nine o'clock in the morning, the first offers and bids would be received for a lot of land and plantation belonging to the succession of the late Mr. D'Auberville, having about twelve arpens front by the depth that might be there found, situated on the road of the Bayou St. John, touching on one side lands of Mr. Latil, and on the other those of Mr. Tourangeau. On which land is a cabin of pickets and posts driven in the earth, and a few fences; in the state and manner in which the whole may be found, with its circumstances and dependencies, even without any guarantee more or less of the said twelve arpens front; the terms and conditions of the sale that the purchaser should pay in cash, before being put into possession, the price of the adjudication, with all the expenses incurred to effect the same. At an audience held at the bar of the court, on the 10th day of the present month of June, 1757, at nine o'clock in the morning, before Mr. Huchet de Kernion, counsellor, assessor of said council, commissioner named in this case, Raguet, counsellor of said council, acting as king's attorney general; there being present a number of bidders; the aforesaid terms and conditions having been read and explained in a loud and intelligible voice by the constable, crier, Mr. Duplanty came forward and bid for the said land and plantation the sum of three thousand livres, and after having waited from nine o'clock in the morning until the clock struck eleven, without any other bidders coming forward, a decree of same date intervened, ordering that new bills or advertisements should be published and posted on the Sunday following, 12th of same month, in all the places, &c. (Here follows and are inserted the 2d and 3d notification of sale.)

And on the 30th of said month of June of said year, nine o'clock in the morning, the audience being held at the bar of the court, before my said Sieur de Kernion, in presence of the king's attorney general, as per proces verbal of notification of le Normand, porter, (suisse) under date 26th of the said present month, the said sale and adjudication to day made public by beat of drum at all the corners of the streets in this city of New Orleans, and there being then present a number of bidders, it was published and proclaimed in a loud and intelligible voice by the constable cried, that they were about to proceed, definitively, to the sale and adjudication, to the highest and last bidder, of the beforementioned land and plantation, its appurtenances and dependencies, without reservation, nothing retaining, and without any guarantee of

more or less, upon the above mentioned terms and conditions; upon which, Mr. Tomassin came forward and bid the sum of 8750 livres; and by Mr. Latil was bid the sum of 9000 livres; and after having waited till it struck eleven o'clock without any other bidder coming forward, the above-mentioned land and plantation, appurtenances and dependencies, in the state in which the whole should be found, were adjudicated, by consent of the parties interested, and by my said sieur, the king's attorney general, definitively, privily, and simply to the said Sieur Latil, at the before-mentioned sum of nine thousand livres, and the expenses incurred in making said sale; for which purchase he promised to pay down three thousand livres; three thousand livres more in one year, counting from this date; [no mention in the copy, of which this is a translation, of the remaining 3000 livres;] for securing which payments he has bound, affected, and mortgaged all his property, real and personal, having and to have, especially the aforesaid land, and elected his domicil and house in this city, in which place, for the execution of these presents, all writs requisite and necessary shall be addressed; and in virtue of which payments made, he will become the lawful and free proprietor of the said land and plantation, having acknowledged that he is in good and due possession of the whole, and with which he is content and satisfied; to be by him used, enjoyed, and disposed of as a property to him belonging in full right. No opposition whatever having taken place during the course of said auctions and publications, we order our principal constable or sargeant in office to make out, for the execution of these presents, all writs requisite and necessary.

Given at the council chamber in New Orleans, the 30th June, 1757.

By the council.

CHANTALON, *Clerk.*

Deed or donation.

Before me, parliamentary attorney and royal notary for the province of Louisiana, residing in New Orleans, personally appeared Mr. Louis Cesar Lebretton, counsellor of the superior council of said province, who, through the warm affection and sincere friendship that he says he bears to Mr. Louis de Morand, his god-son, acknowledges and confesses that he did this day, by these presents, voluntarily give, cede, relinquish and renounce by donation, *entre vivos*, irrevocable, in the firmest manner that can be done, without power to revoke hereafter for any cause whatever, and for more ample security for the same, promises and binds himself to guaranty from all claims the said Louis de Morand, his god-son, a minor; Mr. Alexander Latil, his guardian, here present, accépting for him, his heirs and assigns, a piece of land composed of two arpens, by the depth that may be found adjoining on one side lands of the succession of the deceased Mr. de Morand, and on the other side by lands which my said Sieur Latil purchased from Madam D'Auberville, nothing whatever reserving or retaining; the said Sieur Lebretton reserving for himself all other property movable and im-

of the deceased, and herself, the said deceased bearing the homologation of an assembly of kinsmen and friends; it is ordered, in view of the determination of the king's attorney general, that a piece of land and plantation pertaining to the said succession shall be sold judicially to the highest offerer and last bidder in the mode accustomed, the money arising therefrom to be placed and employed for the benefit and advantage of the said minors. In consequence of all which, advertisements had been published and posted in all the accustomed and ordinary quarters and places of this city of New Orleans, as appears by the procès verbal of le Normand, constable, (huissier,) under date of the 5th of the present month, stating that on the tenth of said month, at nine o'clock in the morning, the first offers and bids would be received for a lot of land and plantation belonging to the succession of the late Mr. D'Auberville, having about twelve arpens front by the depth that might be there found, situated on the road of the Bayou St. John, touching on one side lands of Mr. Latil, and on the other those of Mr. Tourangeau. On which land is a cabin of pickets and posts driven in the earth, and a few fences; in the state and manner in which the whole may be found, with its circumstances and dependencies, even without any guarantee more or less of the said twelve arpens front; the terms and conditions of the sale that the purchaser should pay in cash, before being put into possession, the price of the adjudication, with all the expenses incurred to effect the same. At an audience held at the bar of the court, on the 10th day of the present month of June, 1757, at nine o'clock in the morning, before Mr. Huchet de Kernion, counsellor, assessor of said council, commissioner named in this case, Raguet, counsellor of said council, acting as king's attorney general; there being present a number of bidders; the aforesaid terms and conditions having been read and explained in a loud and intelligible voice by the constable, crier, Mr. Duplanty came forward and bid for the said land and plantation the sum of three thousand livres, and after having waited from nine o'clock in the morning until the clock struck eleven, without any other bidders coming forward, a decree of same date intervened, ordering that new bills or advertisements should be published and posted on the Sunday following, 12th of same month, in all the places, &c. (Here follows and are inserted the 2d and 3d notification of sale.)

And on the 30th of said month of June of said year, nine o'clock in the morning, the audience being held at the bar of the court, before my said Sieur de Kernion, in presence of the king's attorney general, as per proces verbal of notification of le Normand, porter, (suisse) under date 26th of the said present month, the said sale and adjudication to day made public by beat of drum at all the corners of the streets in this city of New Orleans, and there being then present a number of bidders, it was published and proclaimed in a loud and intelligible voice by the constable cried, that they were about to proceed, definitively, to the sale and adjudication, to the highest and last bidder, of the beforementioned land and plantation, its appurtenances and dependencies, without reservation, nothing retaining, and without any guarantee of

more or less, upon the above mentioned terms and conditions; upon which, Mr. Tomassin came forward and bid the sum of 8750 livres; and by Mr. Latil was bid the sum of 9000 livres; and after having waited till it struck eleven o'clock without any other bidder coming forward, the above-mentioned land and plantation, appurtenances and dependencies, in the state in which the whole should be found, were adjudicated, by consent of the parties interested, and by my said sieur, the king's attorney general, definitively, privily, and simply to the said Sieur Latil, at the before-mentioned sum of nine thousand livres, and the expenses incurred in making said sale; for which purchase he promised to pay down three thousand livres; three thousand livres more in one year, counting from this date; [no mention in the copy, of which this is a translation, of the remaining 3000 livres:] for securing which payments he has bound, affected, and mortgaged all his property, real and personal, having and to have, especially the aforesaid land, and elected his domicil and house in this city, in which place, for the execution of these presents, all writs requisite and necessary shall be addressed; and in virtue of which payments made, he will become the lawful and free proprietor of the said land and plantation, having acknowledged that he is in good and due possession of the whole, and with which he is content and satisfied; to be by him used, enjoyed, and disposed of as a property to him belonging in full right. No opposition whatever having taken place during the course of said auctions and publications, we order our principal constable or sargeant in office to make out, for the execution of these presents, all writs requisite and necessary.

Given at the council chamber in New Orleans, the 30th June, 1757.

By the council.

CHANTALON, *Clerk.*

Deed or donation.

Before me, parliamentary attorney and royal notary for the province of Louisiana, residing in New Orleans, personally appeared Mr. Louis Cesar Lebretton, counsellor of the superior council of said province, who, through the warm affection and sincere friendship that he says he bears to Mr. Louis de Morand, his god-son, acknowledges and confesses that he did this day, by these presents, voluntarily give, cede, relinquish and renounce by donation, *entre vivos*, irrevocable, in the firmest manner that can be done, without power to revoke hereafter for any cause whatever, and for more ample security for the same, promises and binds himself to guaranty from all claims the said Louis de Morand, his god-son, a minor; Mr. Alexander Latil, his guardian, here present, accepting for him, his heirs and assigns, a piece of land composed of two arpens, by the depth that may be found adjoining on one side lands of the succession of the deceased Mr. de Morand, and on the other side by lands which my said Sieur Latil purchased from Madam D'Auberville, nothing whatever reserving or retaining; the said Sieur Lebretton reserving for himself all other property movable and im-

movable, to which the said donee can have no pretension whatever, other than what the said donor may hereafter bestow on him should he so think proper. That the said land above donated, he the said sieur may enjoy, use, and dispose of as a thing to him belonging; and in case of need, to have the same recorded in the office of registration, and elsewhere within the four months of the ordinance. The contracting parties constitute and appoint as their attorney the bearer of these presents, giving him full power, with authority to demand certificates thereof; submitting and obligating ourselves, each one in good faith, according to law, and renouncing, &c.

Done and passed in my office in the city of New Orleans, the 24th August, 1758, in presence of Messrs. Pierre Gardera, a sargent-major, and André Sandous, witnesses there residing, and who all, except the donee, (in consequence of his tender age, the said Mr. de Latil signing for him,) have signed the same, with me the said notary.

LEBRETTON,
LATIL,
SADOUS,
GARDERA, and
GARIE, *Notary.*

Correction.

This day, 29th April, 1765, at ten o'clock in the morning, appeared at the clerk's office of the superior council of the Province of Louisiana, and before me, royal notary for said province, Mr. Louis Cesar Lebretton, counsellor of the court of (de Monmoyé) of Paris, and Lord of Casseau, Channeaux, &c., who to me declared and said: That in regard to the donation made on the other page, of two arpens of land in favor of Mr. Louis de Morant, his god-son, in order to prevent, in future, any difficulties or litigation with the adjoining proprietors of the said two arpens, he had this day caused the said land to be surveyed; and according to the proces verbal under date of 12th of the present month, and the plan thereunto annexed, there were bound to be but fifty one toises and one foot of land in front, with a depth to the lands of the heirs of the deceased Pradel, which fifty-one toises and one foot the said Sieur Lebretton means and intends as the only thing it was in his power to give—having no more; for which reason the donation on last page must be restricted and limited to the quantity of fifty-one toises and one foot, bordered on one side by the succession of the deceased Mr. de Morand, and on the other side by the Sieur Latil; and he wills and understands also, in like manner, that the conditions expressed in the proces verbal should be carried into full and entire effect, approving and ratifying, moreover, the said donation on the other page; and he required of me to enregister the present declaration in my book of acts, which request is granted.

Done and declared at New Orleans, the above-mentioned day, month, and year, in presence of Messrs. Alexander Latil and Henry

Gardat, witnesses, required and here residing, who have signed with me, notary.

LEBRETTON,
LATIL,
HENRY GARDAT,
GARIE, *Notary.*

Deed.

Know all those who these letters may see, that Mr. Don Alexandre Latil and Don Louis Docmony de Morant, inhabitants of this city, declare that we sell really and truly to Doña Ana Maria Corbin, widow Voisin, a plantation composed of eight arpens front, with the depth that may be found, and in conformity with the titles; said plantation is situated on the road of the Bayou St. John, bounded on one side by the heirs of Pablo Moran, and on the other by the free negro named Lannette, the same that belongs to us. I, the said Latil, having purchased six arpens at the public sale of the property of Mr. D'Auberville, on the 30th June, 1757, and I, the said Louis Morand, two arpens that were donated to me by Don Louis Cæsar Lebretton, by donation of 24th August, 1758; and we sell the same to him free from charge or mortgage, to which I, the present notary, recorder of mortgages, certify, after inspection of the books thereof under my charge, and for the price of twelve hundred hard dollars; of which sum she has paid us six hundred and fifty in cash that we acknowledge as delivered, and grant acquittance in due form; and the five hundred and fifty dollars remaining are to be paid to the said Dn. Alexander Latil, or his representatives, in all the month of October, 1777, the longest credit, fully and without lawsuit, with the expenses that the collection may give rise to; in virtue of which payments we divest from and relinquish all right of property, profitable possession, ownership and other actions, real and personal, which to the said land we had and held; and the whole we renounce and set over to the said Ana Voisin, or her representatives, that as her own, to her belonging, she may possess and enjoy, or alienate at her pleasure, in virtue of this act which we execute as testimony of real delivery; and we bind ourselves to the making good of this sale in due form of law, with our persons and property had or to have, and we authorize the tribunals of his majesty to compel us to the fulfilment thereof, &c. And being present, I, the said Ana Maria Corbin, I accept this act, and by it receive as purchased the said land, in the quantity and condition stipulated, as sold to me, and I acknowledge the same as delivered; I renounce the proof, laws, &c., and grant a formal receipt, by which I constitute myself debtor and full, in the sum of the said five hundred and fifty dollars, which I will give and pay to the said Latil, whoever may hold his power within the time stipulated in this act, fully and without litigation, with the expenses that the collection may occasion, consenting that an execution may be taken out on the production of this act

alone, and the simple oath of the lawful party with whom this is covenanted; and for further security of my obligation, without the general obligation annulling the special, nor the contrary; but both actions may be used against my other property; I bind and hypothecate especially with the claim of *non aliende*, the said land which I engage not to sell, nor in any manner alienate, until I have entirely satisfied the said $500, on penalty of nullity; and for the security wherein the said parties, each for what concerns them, authorize all tribunals, &c., I, the said Dn. Louis Docmeny de Morand, declaring that I am satisfied with what comes to me from said Latil for my two arpens of land. In testimony whereof, this act is passed in this city of New Orleans, on the 13th November, 1776. I, the notary, certify, that I know the contracting parties who signed it, being witnesses thereto: Dn José de la Plau, Dn. Pedro Coutinier, and Dn. Louis Listau, then present.

ALEXANDER LATIL,
LOUIS DOEMENY DE MORANT,
ANNE MARIE CORBIN, *Veuve Voisin*,
ANTONY JUAN B'TA GARIE, *Notary Public.*

Corresponding with the original before me passed, remaining in my power, in the archives of my office, to which I refer; and at the request of a party interested I grant these presents, on the date of the execution of the act.

In testimony of the truth whereof,

JUAN B. GARIE, *Notary Public.*

LAND OFFICE, NEW ORLEANS,
28th January, 1853.

I certify the foregoing to be a true copy of the evidence in support of the claim of John Baptiste Castillon, No. 308, of record in book No. 2, (pages 633 to 645.)

In testimony whereof, I have hereunto subscribed my name, on the day and year before written.

CHARLES FITZ, *Register.*

No. 308.

Jean B'te Castillon claims the following tracts of land, situated in the county of Orleans, viz:

(1st, 2d, 3d, 4th, 5th, 6th and 7th, are left out by request.

CH'S FITZ, *Reg'r.*)

8. A tract situate on the left side of the Bayou St. John road, in going from the city, containing six arpens in front and extending back to the lands of Jean Gravier, and bounded on one side by land of Mr. Griffon, and on the other by land of Mr. Castanedo.

9th. A tract of land situate on the Bayou St. John, containing seven hundred and eighty-eight superficial arpens, and bounded on one side by land of Mr. Dernisseau, and on the other by the lands of Metarie.

The decision on the seven tracts numbered 1 to 7, is left out by request.

CHAS. FITZ, *Reg'r.*

It appearing that the eighth tract claimed was actually inhabited and cultivated on the 20th of December, 1803, and for more than ten consecutive years prior thereto, the board confirm the claim. The ninth tract of land, now claimed, it appears was granted in 1758, by the French government, to M. Monleon, under whose title the present claimant holds; the board confirm the claim.

LAND OFFICE, NEW ORLEANS,
25th January, 1853.

I hereby certify the foregoing to be a true copy from the report (with the exception of the parts left out by request) of the board of commissioners for the eastern district of the Territory of Orleans, of record in this office.

In testimony whereof, I have hereunto subscribed my name, on the day and year before written.

CHAS. FITZ, *Register.*

LAND OFFICE, NEW ORLEANS,
7th February, 1853.

I hereby certify the foregoing to be a true copy of all the documents in relation to the claim of Jean Baptiste Castillon, No. 308, being, 1st. The notice of claim; 2d. The evidence in support of the same; and 3dly. The decision on the same by the board of commissioners, of record in this office.

In testimony whereof, I have hereunto subscribed my name, on the day and year before written.

CHARLES FITZ, *Register.*

CLERK'S OFFICE.

I certify the foregoing to be a true copy of the original.

Attest: J. W. GURLEY, *Clerk.*

New Orleans, 14th Dec'r, 1855.

Doc. F.—376.

Francis J. Lebreton D'Orgenoiz claims a tract of land situated in the county of Orleans, containing two arpens in front, on the left side of the road which leads from the city of New Orleans, to the Bayou St. John, between the properties now belonging to Domingo Fleitor and Daniel Clarke; which said parcel of land runs towards its rear as far as within sixty feet from the Canal Carondelet, as clearly demonstrated in the annexed plat and proces verbal of survey, executed by Charles Trudeau, late surveyor general of the province of Louisiana, bearing date February 26th, 1800.

Part of said land has been occupied upwards of 30 years; and on the

26th of March, 1800, having by an uninterrupted succession of sales become the property of Joseph Suarez, he obtained from the Spanish government the concession of the remainder, which consists in eleven and a half superficial arpens on the extremity of said land, and bordering on the space of ground reserved for the road of the Canal Carondelet, as it evidently appears by the documents hereunto exhibited.

LAND OFFICE, NEW ORLEANS,
12th February, 1853.

I hereby certify the foregoing to be a true copy of the original notice of claim No. 376, which was filed in this office on the 12th June, 1808.

In testimony whereof, I have hereunto subscribed my name, on the day and year before written.

(Signed) CHARLES FITZ, *Register*.

The maps withdrawn. MILES TAYLOR.

A true copy.
Attest: J. W. GURLEY, *Clerk*.

Document F.—376.

(Translation from the Spanish.)

Survey.

Don Carlos Trudeau, royal surveyor, and surveyor for individuals in the province of Louisiana, &c.

In virtue of the decree of the intendent general of this province, under date of 13th February of the current year, to me communicated by the war notary, Don Carlos Ximinez, I certify and declare, that on this 25th of the present month of February I proceeded to carry into effect the verification and demarcation of the lines of the piece of land expressed in the foregoing memorial; for which purpose we cited the commissary of the same district, Dn. Joseph de Lisa, together with the neighbor next adjoining the line, Dn. Carlos Guardiola. These gentlemen declared that they did not wish to accompany us in this operation, as they would have to go into the water, the lot being entirely drowned and very miry; and in order not to suspend this operation, we proceeded to the examination of the documents relating to said lot of ground; whereby we ascertained that the lot of ground occupied by the party interested, Joseph Suarez, was derived from—1st. One portion of land which was sold by a person called Grisilier, alias Turangeau, to Don Guillermo Senchal D'Auberville, under date of 10th June, 1756; and the other portion was likewise sold to the same D'Auberville by Mr. Lebretton, under date of 30th May, 1757; which small parcels of land were summarily transferred to Dn. Alexandre Latille, who sold, with a larger portion, the two arpens front occupied by the aforesaid Suarez. He purchased the same from Da. Susana Cayer, widow of Dn. Gabriel Peyroux, on the 19th day of June, 1796, expressing in the act of sale "two arpens front, between parallel lines, with the depth that the same

might have," the aforesaid two arpens being already surveyed on the front and landmarks set thereon. It became necessary, in the first place, to ascertain what depth the said two arpens ought to have; and as in the act of sale of Mr. Lebretton to Mr. D'Auberville the former declares that he sells six arpens fourteen toises and four feet front by the same depth as had already been purchased by D'Auberville; and according to the verification of the land sold by Turangeau to D'Auberville, declaring that he had sold from the centre of the actual Washwoman's bridge, looking towards the west, upon a line drawn from the S. W. ¼ S., until it meets the common boundary of the lands that belonged to Turangeau and Lebretton, as far as the Bayou St. John, there are twenty arpens ten toises; and as Tourangeau, according to the grants of 20th September, 1720, and 21st April, 1721, had forty arpens in depth, it is clear that he sold to Mr. D'Auberville nineteen arpens in depth; and, consequently, Lebretton sold the same quantity on the side opposite to the Bayou road, according to the dotted line of the plan. And whereas the direction of the boundary lines were changed, as appears by the landmarks A, B, C, and E, F, G, H, J, the aforesaid Suarez could not purchase a greater depth than to the termination of the red lines K, M, the southern boundary of the land sold by Mr. Lebretton to D'Auberville; the remainder of the lot of ground (in yellow, K, L, M, D,) being the abandoned lot and crown land for which Joseph Suarez petitions, and contains eleven and a half superficial arpens, bounded on the N. E. by the rear of the land of the party interested, on the S. W. by the road which joins on the bank of the Canal Carondelet, for communication of this city of New Orleans with the Bayou St. John; and on other parts, lands abandoned and never occupied, and considered as crown lands.

In witness whereof I sign the present, with the lineal plan subjoined.

February 26, 1800. CARLOS TRUDEAU,
Royal surveyor.

NOTE.—On the plan three norths were marked, to wit, the true north, the north shown by compass in the year 1735, when the boundaries of lands in this district were established, and the present north of the compass; so that in the boundaries the explanations refer to the present north by compass, without regard to the variation, &c.

CARLOS TRUDEAU.

Patent.

Don Ramon de Lopez y Angulo, a pensioned knight of the royal and distinguished Spanish order of Charles the 3d, secretary to the king, with the ministry of decrees of the council of his majesty, intendant of the royal exchequer of the province of Louisiana and West Florida, under-delegated superintendent general, admiralty judge in mercantile affairs, traffic, and commerce, and in cases of royal crown lands and lots, &c.

Whereas Josef Suarez, a resident and inhabitant on the road leading from this city to the Bayou San John, having appeared in this tribunal,

petitioning for the grant of land abandoned, without permanent cultivation for more than thirty years, the same with the front of two arpens (which is that of his plantation) is continued on from the line of the rear of his property as far as the road forming the bank of the Canal Carondelet, and is used for the transit from this city to the Bayou St. John: I decreed that the surveyor, Don Carlos Trudeau, make report in conformity to the petition of the aforesaid Suarez in the *Moreover* of his petition; that this step, taken with whatever resulted therefrom favorable to petitioner, I ordered should be submitted to the fiscal of the royal exchequer, and from what he stated in reply, I directed the survey to be made; that this having been finally performed by the said surveyor, and the same certified at foot of the procès verbal, with a statement of the operation and an explanation of the plan showing the figure of the land and demonstrating the same, resulting and proving thereby that there were eleven and a half superficial arpens of crown lands, with the front of two arpens, at the line where the depth of his said plantation terminates to the aforesaid road running along the aforesaid Canal Carondelet, the lines and points on the plan being designated by the letters K, M, L, D, adjoining the lot therein indicated, vacant land, sale, and grant made to Mr. Lebreton, as pointed out on same plan and statement of the surveyor to which I refer; I ordered by a decree of 17th of the present month, that a title therefor be made out in the name of the said Josef Suarez. Wherefore, conforming to the instructions made and published by this intendency on the subject, making use of the faculty to me granted for these favors, in the name of the king our lord, (whom God preserve,) I grant as a favor, and without any retribution, to the said Josef Suarez, the eleven and a half superficial acres of crown lands, in virtue of what has been executed or authorized as before mentioned, with the points, boundaries, and lines as before related and appears from the plan deposited with this title for elucidation and proof, with the forests and pastures it may contain; declaring as I do declare that he holds entire and direct ownership to and over the aforesaid eleven and a half arpens, and as his own may make use of, sell or alienate the same at his pleasure; giving him power to take possession thereof, or to claim the same from this tribunal in case by any one he be impeded therein, and in which possession I place and protect him, without prejudice to third parties who may have a better right; with the requisite stipulation and condition that the said Josef Suarez, to whom this grant, grace, and favor is made, shall engage for himself and successors therein, to comply with the articles of instruction relative thereto, and the local circumstances, under the penalties imposed, and relative thereto no ignorance shall be pleaded. By virtue whereof, I order the present to be issued, signed by my hand, sealed with my arms, and countersigned by the present notary of the royal exchequer, who, as well as the principal auditor's office, will make the registry directed in the mandate.

Given in New Orleans, on the 26th March, 1800.

RAMON DE LOPEZ Y ANGULO.

By order of his lordship, the intendant, I, Carlos Ximenez, certify, that the proper registry of the foregoing title was made in the book of registry designated for that purpose, at folio four, on the reverse and following pages. New Orleans, 16th April, 1800.

CARLOS XIMENEZ.

In the office of the principal auditor of the army and royal exchequer of this province, the foregoing title was registered in folio 3.

New Orleans, date ut supra.

GILBERTO LEONARD.

(From the French.)

Deed.

This day, 14th of the month of January, 1807, and the 30th of American independence, before me, Pierre Pedesclaux, notary public of the U. S. of America, at New Orleans, personally appeared Mr. Jacques Philippe Auguste Gabourdet, residing in this city, who, of his own accord, proper movement, and free will, did, by these presents sell, cede, make over, and transfer, with promise of guarantee against all troubles, debts, mortgages, and other impediments generally whatsoever, to which I, the said notary, as recorder of mortgages, certify solely as respects the mortgage, to Mr. Francois Joseph Lebreton, residing in this city, here present, and accepting for himself, his heirs, and assigns, a lot of ground situated on the road of the Bayou St. John, on the left-hand side in going out from this city, having two arpens front by the depth which it may be found to possess; adjoining, on the one side, to Mr. Daniel Clark and Watkins, and on the other side to that of Mr. Dominique Fleitor, to him belonging, as purchased from Mr. Joseph Suarez, by act in my office on the 24th October of last year. The said lot, here above sold, with all its buildings, appurtenances, and dependencies, issues, rights, usages, and servitudes, without reservation or retention of anything whatsoever, such as it was enjoyed by the purchaser, which lot of ground the said purchaser declared he knows and is satisfied therewith. The present sale is made and accepted between the parties, under the clauses and conditions above recited, in consideration of the price and sum of two thousand five hundred dollars, which the seller declares he has received from the purchaser in a promissory note for the same sum which he owed to the said Lebreton, which note he delivered to him in the presence of me, notary undersigned; in virtue of all which he desists from, and relinquishes all right of property to said lot here above sold, in favor of the purchaser, who is seized thereof and clothed with full power therefor, to be by him enjoyed, as a thing to him belonging, from this time forever; to take possession thereof whensoever he may think proper; for thus, &c.

Done and passed in my office, at New Orleans, the day and year above written, in presence of Messrs. Jean B'te Ramirez and Joachin Lozano, witnesses, who signed with me, notary, and the parties appearing.